ADMINISTRATIVE PLAN

FOR THE

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
SECTION 8 MODERATE REHABILITATION PROGRAM

Oklahoma City Housing Authority
1700 Northeast Fourth Street
Oklahoma City, Oklahoma 73117-3800

Adopted
December 21, 2011

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April 23, 2025

Introduction

ABOUT THE REFERENCES CITED IN THE ADMINISTRATIVE PLAN

AUTHORITIES FOR POLICIES IN THE ADMINISTRATIVE PLAN

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

HUD

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

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

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

State Law

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

Industry Practice

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

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

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

HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards,* p. 11).

Abbreviations

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

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

Resources and Where to Find Them

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

Document and Location
Code of Federal Regulations https://www.ecfr.gov/
Earned Income Disregard FAQ https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF
Executive Order 11063 https://www.archives.gov/federal-register/codification/executive-order/11063.html
Federal Register https://www.federalregister.gov/
Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook
HUD-50058 Instruction Booklet https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf
Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice https://www.hud.gov/sites/documents/DOC_8993.PDF
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF
Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf

OMB Circular A-133 https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf
Project-Based Voucher Program; Final Rule http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf
VAWA Final Rule http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf

The HUD website is https://www.hud.gov/.

Guidebooks, handbooks and other HUD resources may be found at the HUD Clips website: https://www.hud.gov/program_offices/administration/hudclips.

The new HCV Guidebook may be found at: https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook

ADMINISTRATIVE PLAN
REVISION DATES

FOR THE

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
SECTION 8 MODERATE REHABILITATION PROGRAM

Oklahoma City Housing Authority
1700 Northeast Fourth Street
Oklahoma City, Oklahoma 73117-3800

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Oklahoma City Housing Authority (OCHA) receives its funding for the Housing Choice Voucher (HCV) program from the U. S. Department of Housing and Urban Development (HUD). OCHA is not a federal department or agency. OCHA is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. OCHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. OCHA will ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about OCHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Oklahoma City Housing Authority (OCHA). This part includes a description of OCHA, its jurisdiction, its programs, and its mission and intent.

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

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

PART I: THE OKLAHOMA CITY HOUSING AUTHORITY (OCHA)

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF OCHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by **OCHA** for the jurisdiction of **City of Oklahoma City, County of Oklahoma.**

The officials of OCHA 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 OCHA conducts business, ensuring that policies are followed by OCHA staff and ensuring that OCHA 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 OCHA are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of OCHA.

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

1-I.C. OCHA's MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

The Oklahoma City Housing Authority's mission is to provide safe, decent and sanitary housing conditions for very low-income families, to manage resources efficiently and to promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.

1-I.D. OCHA'S COMMITMENT TO ETHICS AND SERVICE

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

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

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

1-I.E. OCHA'S PROGRAMS

All of OCHA's programs are not covered by the administrative plan. OCHA has Public Housing and the Admission and Continued Occupancy Policy covers that program.

OCHA's administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the following special programs:

- Single room occupancy (SRO)
- Congregate housing
- Group home
- Shared housing
- Cooperative housing
- Manufactured home
- Homeownership
- HUD-Veteran's Affairs Supportive Housing (HUD-VASH)
- Family Unification Program (FUP)
- Project Access
- Mainstream Vouchers

- Continuum of Care (COC)

- OCHA administers the Family Self-Sufficiency (FSS) Program and the HCV policies do pertain to families who participate in the FSS program. However, there is also an FSS action plan which addresses the operation and guidelines for the operation of the FSS program.

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality ("housing quality standards") and was within certain HUD-established rent limitations ("fair market rents"), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family's adjusted income, with the remainder of the rent paid by the program.

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as "conforming" rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. OCHA is afforded choices in the operation of the program which are included in OCHA's Administrative Plan, a document approved by the Board of Commissioners of OCHA.

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

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

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

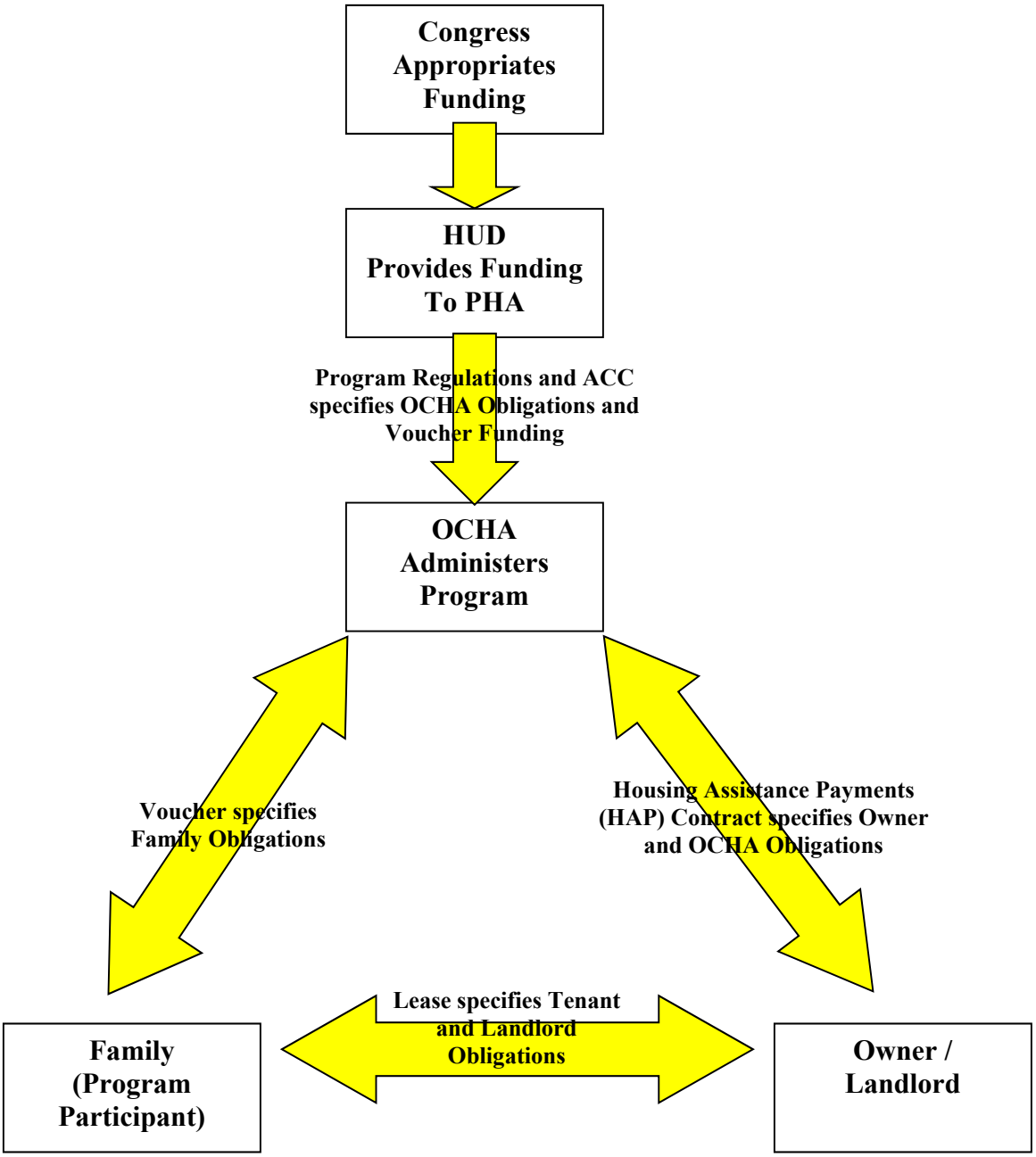
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, OCHA enters into a contractual relationship with HUD. OCHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

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

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

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

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

What does OCHA do?

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

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, OCHA's Administrative Plan, and other applicable federal, state and local laws.

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters;
    - OCHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
    - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with OCHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

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

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 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)

PART III: THE HCV ADMINISTRATIVE PLAN

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

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

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

OCHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this Plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of OCHA staff shall be in compliance with OCHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

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

The HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan. They are as follow:

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);

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

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects OCHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies OCHA has adopted. OCHA's Administrative Plan is the foundation of those policies and procedures. HUD's directions require OCHA to make policy choices that provide guidance to staff and consistency to program applicants and participants.

1-III.C. UPDATING AND REVISING THE PLAN

OCHA will revise this administrative plan as needed to comply with changes in HUD regulations, OCHA operations, or when needed to ensure staff consistency in operation. The original plan and any changes must be approved by the Board of Commissioners of OCHA and a copy provided to HUD.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

OCHA will comply fully with all federal, state, and local nondiscrimination laws, and with the rules and regulations governing fair housing and equal opportunity in housing and employment, including but not limited to:

- Title VI of the Civil Rights Act of 1964;
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988);
- Executive Order 11063 and 13988;
- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975;
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern);
- Violence Against Women Act of 2013 (VAWA);
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- When more than one civil rights law applies to a situation, the laws will be read and applied together;
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

2-I.B. NONDISCRIMINATION

OCHA does not discriminate on the basis of race, color, religion, sex, national origin, age, familial status, and disability (called "protected classes").

There are no laws in the State of Oklahoma that protects lesbian, gay, bi-sexual, and transgender (LBGT) individuals from discrimination.

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, people securing custody of children under the age of 18 and the designee of the parent or legal custodian, with the parent or custodian's written permission.

OCHA will not discriminate on the basis of marital status, gender identity, or sexual orientation.

OCHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the HCV program;
- Provide housing that is different from that provided to others;
- Subject anyone to segregation or disparate treatment;
- Subject anyone to sexual harassment;
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
- Treat a person differently in determining eligibility or other requirements for admission;
- Steer an applicant or participant toward or away from a particular area based on any of these factors;
- Deny anyone access to the same level of services;
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program;
- Discriminate in the provision of residential real estate transactions;
- Discriminate against someone because they are related to or associated with a member of a protected class; and/or
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

PROVIDING INFORMATION TO FAMILIES AND OWNERS

As part of the briefing process, OCHA will provide information to HCV program applicant and participant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods in accordance with 24 CFR 982.301.

The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

DISCRIMINATION COMPLAINTS

If an applicant or participant believes that they have been discriminated against by OCHA or an owner/agent, the family should advise OCHA either orally or in writing. OCHA will make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, OCHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Within 10 business days of receiving the complaint, OCHA will provide a written notice to those alleged to have violated the rule. OCHA 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). [Notice PIH 2014-20] If requested by the complainant, OCHA will assist in completing and submitting the appropriate documentation to HUD's FHEO.

OCHA will attempt to remedy discrimination complaints made against OCHA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of OCHA's investigation, OCHA 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.

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

There will be no retaliatory action by OCHA or its staff against any applicant or participant because of participation in civil rights activities or for having asserted any rights under equal opportunity laws.

OCHA will comply with the Analysis to Impediments to fair housing as defined by the City of Oklahoma City.

OCHA will affirmatively further fair housing.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A 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 in order for a participant to lease an accessible dwelling unit.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for OCHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, OCHA will encourage the family to make its request in writing using a "Reasonable Accommodation Request Form". However, OCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

Before providing an accommodation, OCHA will determine that the person meets the definition of a person with a disability (the regulatory civil rights definition for persons with disabilities is provided in Chapter 6), and that the accommodation will enhance the family's access to the programs and services. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability (as defined on page 3-4) which is used for waiting list preferences and income allowances.

If a person's disability is obvious, or otherwise known to OCHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to OCHA, OCHA 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. To verify the disability, OCHA will request:

- Third-party verification from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.
- Only information that is necessary to evaluate the disability-related need for the accommodation. OCHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the applicant/participant file.
- In the event that OCHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, OCHA will dispose of it. In place of the information, OCHA will note in

the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

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

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

Requests for accommodations will be assessed on a case-by-case basis, taking into account factors such as the overall size of OCHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, OCHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that OCHA may verify the need for the requested accommodation.

If OCHA denies the request for accommodation, because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of OCHA's operations), the request was not made by or on behalf of a person with a disability, or there is no disability-related need for the accommodation, OCHA will notify the family in writing.

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

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display/teletype) communications will be available. A sign language interpreter will be provided upon request.

To meet the needs of persons with vision impairments, large-print 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 OCHA staff, one-on-one assistance will be provided upon request.

Applicants/participants may have a third party representative (a friend, relative or advocate, named by the applicant/participant) to receive, interpret, and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

OCHA 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

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

- This plan describes the key policies that govern OCHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The OCHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

2-III.A. OVERVIEW

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

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

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

In order to determine the level of access needed by LEP persons, OCHA will balance the following four factors:

1. the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program;
2. the frequency with which LEP persons come in contact with the program;
3. the nature and importance of a program, activity, or service provided by the program to people's lives;
4. the resources available to OCHA and the costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on OCHA.

2-III.B. ORAL INTERPRETATION

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

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

Where LEP persons desire, they will 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 OCHA. OCHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

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

OCHA will provide written translations of vital documents for each eligible LEP language group that constitutes ten (10%) percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally.

2-III.D. IMPLEMENTATION PLAN

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

OCHA will not develop a written LEP plan, but will ensure meaningful access by LEP persons to OCHA's Housing Choice Voucher program and services.

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

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

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

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

OCHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the HCV program:

The applicant family must:

- Qualify as a family as defined by HUD and OCHA.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for family members as required.
- Consent to OCHA's collection and use of family information as provided for in OCHA-provided consent forms.
- Not currently be receiving a duplicative subsidy.

OCHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or OCHA.

This chapter contains three parts:

> Part I: Definitions of Family and Household Members. This part contains HUD and OCHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.
>
> Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.
>
> Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause OCHA to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

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

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* 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. OCHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

Household

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

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

Family Break-up [24 CFR 982.315; Notice PIH 2017-08]

Except under the following conditions, OCHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault or stalking, OCHA will ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault and stalking, see Chapter 16-IX of this plan.)
- In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher's turnover.
- If a court determines the disposition of property between members of the assisted family, OCHA is bound by the court's determination of which family members continue to receive assistance.

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

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

In the absence of a judicial decision, or an agreement among the original family members, OCHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors:

- the interest of any minor children, including custody arrangements;
- the interest of any ill, elderly, or disabled family members;
- 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;
- any possible risks to family members as a result of criminal activity; and
- the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes:

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 tenant 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 Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

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

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

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

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

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both.

Spouse means the marriage partner of the head of household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program.

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

- Minors who are emancipated under state law may be designated as a co-head.

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

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

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents:

- the head of household;
- spouse;
- co-head;
- foster children/adults; and
- live-in aides.

Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

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

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, OCHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

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:

- each family member that is a FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction; and
- the income of such a FTS is treated differently from the income of other family members.

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

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person.

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

Persons with Disabilities

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

As discussed in Chapter 2, OCHA will make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, co-head or sole member is a person with a disability. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

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

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

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

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 90 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 50 percent of the time, are not subject to the time limitations of guests as described above.

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

The term *foster child* is a child residing in the home who 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, and for whom the family is receiving income from a governmental body.

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

Generally an individual who is or is expected to be absent from the assisted unit for 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

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

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

If a child has been placed in foster care, OCHA 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.

Absent Head, Spouse, or Co-head

An employed head, spouse, or co-head absent from the unit more than 60 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who [24 CFR 5.403]:

- 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.

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

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

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request (subject to verification) at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is:

- not obligated for the support of the person(s) needing the care; and
- would not be living in the unit except to provide the necessary supportive services.

OCHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to OCHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families [24 CFR 5.603(b)]

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.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible for participation in the Section 8 Moderate Rehabilitation, Housing Choice Voucher, and Single Room Occupancy Program, a family must be one of the following:

- A *very low-income* family;
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4: 24 CFR 982.201(b)];
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in:
  - HOPE 1 (public housing homeownership);
  - HOPE 2 (multifamily housing homeownership) developments; or
  - other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173.
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

Using Income Limits for Targeting [24 CFR 982.201]

At least seventy-five (75) percent of the families admitted to OCHA's program must be extremely low-income families.

HUD's published income limits:

No. of Persons	1	2	3	4	5	6	7	8+
Very Low-Income Family	34,200	39,100	44,000	48,850	52,800	56,700	60,600	64,500
30% of Median	20,550	23,450	26,650	32,150	37,650	43,150	48,650	54,150

Families will be notified in writing of their eligibility.

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

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

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with OCHA's efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. OCHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

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

No individual or family may be assisted prior to the affirmative establishment by OCHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to OCHA in accordance with program requirements [24 CFR 5.512(a)].

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

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

If an individual qualifies for a time extension for the submission of required documents, OCHA will 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.

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

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed a SSN, has previously disclosed a SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

OCHA will deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216 within ninety (90) days of application.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, 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. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

OCHA will deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612]

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents in accordance with OCHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

Definitions

In determining whether and how the new eligibility restrictions apply to a student, OCHA will rely on the following definitions:

Dependent Child

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

Independent Student

OCHA will consider a student "independent" from their parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.
- To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:
    - The individual is at least 24 years old by December 31 of the award year for which aid is sought;
    - The individual is an orphan, in foster care or a ward of the court or was an orphan, in foster care or ward of the court at any time when the individual was 13 years of age or older;
    - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
    - The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes;
    - The individual is a graduate or professional student;
    - The individual is married.
    - The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
    - The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
        - A local educational agency homeless liaison
        - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
        - A financial aid administrator
    - The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances
- The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.
- If OCHA determines that an individual meets the definition of a vulnerable youth such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.

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

Institution of Higher Education

OCHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education*.

Parents

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

Person with Disabilities

OCHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

Veteran

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

Vulnerable Youth

A vulnerable youth is an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
    - A local educational agency homeless liaison
    - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
    - A financial aid administrator

Determining Student Eligibility

If a student is applying for assistance on their own, apart from their parents, OCHA will determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, OCHA will ensure that:

- the student is individually eligible for the program;
- either the student is independent from their parents or the student's parents are income eligible for the program; and
- the "family" with which the student is applying is collectively eligible for the program.

If OCHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, OCHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

Determining Parental Income Eligibility

For any student who is subject to 24 CFR 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, OCHA will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, OCHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, OCHA will obtain an income declaration and certification of income from that parent.

- If the student's parents are divorced or separated, OCHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, OCHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. OCHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, OCHA will use the income limits for the jurisdiction in which the parents live.

3-II.F. EIV SYSTEM SEARCHES [Notice PIH 2018-18]

Existing Tenant Search

Prior to admission to the program, OCHA must search for all household members using the EIV Existing Tenant Search module. OCHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. OCHA 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 OCHA, and a match is identified at a multifamily property, OCHA 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. OCHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

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, OCHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

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.

OCHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. 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.

OCHA 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, OCHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

Income and Income Validation Tool (IVT) Reports

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

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

While the regulations state that OCHA must prohibit admission for certain types of criminal activity and give OCHA the option to deny for other types of previous criminal history, more recent HUD rules and the Office of General Counsel (OGC) guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, OCHA may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds OCHA of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16].

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

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

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, familial status or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.);
- Where a family lives prior to admission to the program;
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, Portability.);
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- Whether the family includes children;
- Whether a family decides to participate in a family self-sufficiency program; and/or
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, sexual assault or stalking if the applicant is otherwise qualified.

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

HUD requires OCHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, OCHA to admit an otherwise-eligible family if the household member has completed an OCHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

- OCHA determines that any household member is currently engaged in the use of illegal drugs.

  Currently engaged in is defined as any use of illegal drugs during the previous six (6) months.

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

  In determining *reasonable cause*, OCHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. OCHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

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

3-III.C. OTHER REASONS FOR DENIAL OF ASSISTANCE

Criminal Activity [24 CFR 982.553]

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three years, the family will be denied assistance:

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

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

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

- 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 PHA (including an OCHA employee or an OCHA contractor, subcontractor, or agent).

    - *Immediate vicinity* means within a three-block radius of the premises.

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

    - Any conviction for drug-related or violent criminal activity within the past three years.

    - Records of arrests for drug-related or violent criminal activity within the past three 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.

In making its decision to deny assistance, OCHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OCHA may, on a case-by-case basis, decide not to deny assistance.

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

HUD authorizes OCHA to deny assistance based on the family's previous behavior in assisted housing:

OCHA is no longer permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].

OCHA **will** deny assistance to an applicant family:

- Who have not paid financial charges owed to OCHA or other federally assisted housing. Balances owed which exceed the State of Oklahoma Statute of Limitations will not be considered;

- Who does not provide complete and true information to OCHA.

- Who have not attended the briefing sessions required by OCHA;

- Who have committed fraud with any Federal Housing Assistance program within two (2) years from the date the violation occurred or two (2) years from the date of termination;
- Who have breached an agreement with OCHA or other assisted Housing Agency to pay amounts owed; unless the family repays the full amount of the debt prior to being selected from the waiting list.
- Who have failed to sign and submit consent forms for obtaining income and other required information;
- Who have not submitted required evidence of citizenship or eligible immigration status;
- Welfare-To-Work (WTW) family who fails to fulfill its obligation under the WTW Voucher Program;
- A family member has engaged in or threatened violent or abusive behavior toward OCHA personnel.
    - *Abusive or violent behavior towards OCHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny assistance, OCHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OCHA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

OCHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists OCHA in complying with HUD requirements and OCHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records, OCHA will require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

While OCHA 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, OCHA may not use records for this purpose.

OCHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If OCHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information obtained under 24 CFR 5, Subpart J, OCHA will notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

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

OCHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. OCHA will inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

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

OCHA will not disclose to the owner any confidential information provided in response to OCHA's 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(a)(4)].

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

Evidence [24 CFR 982.553(c)]

OCHA will use the concept of the *preponderance of the evidence* as the standard for making all admission decisions.

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

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

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

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

- Any statements made by witnesses or the applicant 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 or not the applicant 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

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

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

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

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

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

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

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, OCHA will determine whether the behavior is related to the disability. If so, upon the family's request, OCHA will determine whether alternative measures are appropriate as a reasonable accommodation. OCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

If OCHA determines that a family is not eligible for the program for any reason, the family will be notified in writing at their last known address. The notice will describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

If based on a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, an applicant family appears to be ineligible, OCHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The family will be given ten (10) business days to dispute the accuracy and relevance of the information [24 CFR 982.553(d)]. If the family does not contact OCHA to dispute the information within that ten (10) day period, OCHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

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

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING [24 CFR Part 5, Subpart L]

The Violence against Women Act of 2013 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the HCV program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, sexual assault or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005(b)].

Notification

VAWA 2013 expanded notification requirements to include the obligation for OCHA to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD–5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

OCHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under OCHA's policies.

While OCHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform OCHA that their status as a victim is directly related to the grounds for the denial. OCHA will request that the applicant provide enough information to OCHA to allow OCHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

OCHA will include in its notice of denial the VAWA information as well as including a copy of the form HUD-5382. OCHA will request that an applicant wishing to claim protection under VAWA notify OCHA within 10 business days.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

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

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act 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* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

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

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

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

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

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides OCHA with the information needed to determine the family's eligibility. HUD requires OCHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, OCHA must select families from the waiting list in accordance with HUD requirements and OCHA policies as stated in the Administrative Plan.

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

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

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

Part III: Selection for HCV Assistance. This part describes the policies that guide OCHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how OCHA will obtain the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits OCHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by OCHA.

OCHA uses a two-step application process.

Under the two-step application process, OCHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Preliminary applications will be accepted via the on-line application system available through OCHA's portal (portal.ochanet.org). When assistance is available, the applicant will be required to complete a formal application though OCHA's portal.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

Limited English Proficiency

OCHA is required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency. Chapter 2 provides a full discussion on OCHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

OCHA must review each complete application received and make a preliminary assessment of the family's eligibility. OCHA will accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, OCHA will notify the family in writing [24 CFR 982.201(f)]. Where the family is determined to be eligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

If OCHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, OCHA will send written notification of the ineligibility. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review.

In some cases a determination regarding eligibility/ineligibility cannot be made due to discrepancies, no response to correspondence and/or returned mail. These applications are logged into the inactive files, where they are retained for three (3) years. Any decision to withdraw from the waiting list the name of an applicant family that includes a person with a disability is subject to reasonable accommodation. If the applicant did not respond to OCHA's request for information or updates because of the family member's disability, OCHA will reinstate the applicant in the family's former position on the waiting list. An applicant will not be reinstated beyond sixty (60) days unless as a reasonable accommodation. In special instances, an inactive application may be reinstated, such determination to be made by the department head or designee.

Eligible for Placement on the Waiting List

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 OCHA.

Families terminated as a result of insufficient funding will be added to the HCV wait list at any time, even if the wait list is closed. When funding is available, these families will be selected from the wait list first.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

OCHA has policies regarding various aspects of organizing and managing the waiting list of applicant families.

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

OCHA's HCV waiting list will be organized in such a manner to allow OCHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list will contain the following information for each applicant listed:

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

OCHA will maintain a single waiting list for the HCV program.

In addition to the HCV tenant-based wait list, OCHA maintains project-based and special program waiting lists. OCHA maintains the following waitlists:

- Village at Oakwood – PBV Program – Assisted living center (90 units)
- John H. Johnson Care Suites – PBV Program – Assisted living center (130 units)
- General Pershing Center – PBV Program – Homeless (51 units)
- Sooner Haven RAD – PBV Program – RAD Conversion (Family Housing) (113 units)
- Sooner Haven TPV – PBV Program - RAD Conversion (Family Housing) (37 vouchers)
- Candle Lake Senior Center – PBV Program - RAD Conversion (Senior center) (101 units)
- Louis F. Danforth Senior Center – PBV Program – RAD Conversion (Senior center) (101 units)
- Emergency Housing Vouchers – Tenant based voucher (36 vouchers)
- Palo Duro Mod Rehab – PBV Program - SRO Moderate Rehabilitation (12 units)

A family that applies for assistance from the HCV program will be offered the opportunity to apply for any public housing, project-based voucher or moderate rehabilitation program OCHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

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

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

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

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

Closing the Waiting List

OCHA may close the waiting list if it determines that the existing waiting list has an adequate pool of families to use its available HCV assistance. Where OCHA has particular preferences or funding criteria that require a specific category of family, OCHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

When OCHA opens a waiting list, public notice will be given by publication in a local newspaper of general circulation, and also by minority media and other suitable means. The public notice will state where and when to apply. The notice will comply with HUD fair housing requirements.

If the list is only being reopened for certain categories of families, this information will be contained in the notice.

4-II.D. FAMILY AND OWNER OUTREACH

The potential family groups eligible for the Section 8 Housing programs are established by income limits set by HUD and by the breakdown in types of housing detailed in the Annual Contributions Contract (ACC). Therefore, measurement of the extent of success of the programs should be comparatively simple in making certain that all those families eligible for housing assistance are given the opportunity to receive it.

OCHA continually strives to conform to Allocations as detailed in the OCHA's ACC with HUD. Compliance control will be maintained by proper selection of various outreach methods. The following discussion of outreach methods has been divided into two sections, the first for families and the second for owners.

Family Outreach

Family outreach is achieved by any one or combination of the following methods:

- Referral by residents and applicants of the Public Housing Program and the Section 8 Programs;
- Public service announcements or news items in the Daily Oklahoman, Black Chronicle, Journal Record, El Nacionale and internet. If not productive, paid classified ads are utilized;
- Informational fact sheets or brochures are distributed to area agencies and centers. Personal contacts with community agencies include but not limited to: Latino Community Development Agency, Native American Center, Areawide Aging Agency, Salvation Army, Neighbor to Neighbor, and local homeless shelters;
- Public service announcements on local television and radio stations;

- A printed brochure geared to potentially qualified families is continually distributed to individuals, social agencies or other agencies dealing with minorities;
- Satellite centers where families not being reached are most likely to congregate include the following:
  - Department of Human Services;
  - Social Security Administration; and
  - Workforce Oklahoma.

These sources offer a representative cross-section of families given the opportunity to participate in the program. An applicant list of families will be maintained when immediate assistance is not available. Special outreach will be made to applicants on the Section 8 waiting list to fill vacancies in the Single Room Occupancy (SRO) Program.

Owner Outreach

OCHA staff will be assigned to a one-on-one discussion with large and small property owners by phone and personal contact to maintain an adequate number of landlords.

OCHA prepares information packets directed to owner participation by listing advantages of the programs to prospective landlords. The packets are available upon request. Periodic speaking engagements to civic and community groups likewise keep the programs visible. Quadrant distribution of information assures contact with both large apartment management entities as well as single property owners in areas outside of low-income and minority concentration.

OCHA does not maintain a Housing List of property owners who wish to participate in the Section 8 HCV Program. Families are provided a list of on-line resources for locating participating landlords at the time of Voucher issuance.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform OCHA of changes in contact information, including current residence, mailing address, and phone number. The changes may be submitted through the OCHA portal, orally or in writing.

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

Purging the Waiting List

Updating the Application Waiting List is an important task and will be performed at least annually. Once OCHA has an updated waiting list it will be much easier for the Intake Staff to contact applicants.

Preparing the Update Package

The first step in updating the waiting list is to send each applicant an update package. The package contains both a letter and/or e-mail explaining the update process. The applicant will have fourteen (14) calendar days from the date of the update letter to respond to OCHA, either through the OCHA portal or by mailing back the update form in the envelope provided, facsimile, email or by hand carrying it back to OCHA Central Office.

Completing the Waiting List Update

After all the responses have been received from applicants who confirm their continued interest in the OCHA Section 8 HCV Program, the Intake Staff will update the waitlist. Applicants, who do not respond within fourteen (14) calendar days to the update letter or the update letter is returned undeliverable, will be removed from the waiting list. An applicant will not be reinstated beyond sixty (60) calendar days unless as a reasonable accommodation. If a request is not made within sixty (60) calendar days the Preliminary Application will be dropped and the applicant will need to reapply for the Section 8 HCV Program.

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part. The source of HCV funding also may affect the order in which families are selected from the waiting list.

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of Public Housing; Veterans Affairs Supportive Housing). In these cases, OCHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list.

- Single Room Occupancy (SRO) (Mod-Rehab)

Targeted Funding [24 CFR 982.204(e)]

HUD may award OCHA funding for a specified category of families on the waiting list. OCHA will use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, OCHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

OCHA administers the following types of targeted funding:

- Family Reunification Program (FUP)
- Mainstream Program (MS)
- Veteran's Affairs Supportive Housing (HUD-VASH)
- Near- Elderly Disabled (NED)
- Emergency Housing Vouchers (EHV)

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

OCHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria.

Families will be selected based on the category of preferences outlined in this subsection. These preferences are not weighted and are not listed in any specific priority order. OCHA reserves the right to select or suspend selection from any preference category at any time based on funding availability or to meet local housing needs.

Families terminated as a result of insufficient funding will be selected from the waiting list first. [See 16-VIII.C.]

OCHA may limit the number of applicants selected from the HCV waiting list at a fifty/fifty (50/50) ratio between non-disabled person(s) and disabled person(s).

- Disabled person is defined as a person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. §423), or as defined in Chapter 3 Exhibit 3-1.

Local Preferences [24 CFR 982.207]

All local preferences for admission are contingent upon HUD funding.

City Care a preference for homeless referred to OCHA.

Palo Duro a preference for homeless referred to OCHA from Neighborhood Services for 10 non-PBV units.

The Winds House a preference will be provided for persons with HIV/AIDS referred by AIDS support program.

Community Enhancement Corporation are homeless and are referred from the City of Oklahoma City Homeless Continuum of Care Coordinated (OKCOCC) entry list.

Tenant Protection Vouchers are regular tenant-based vouchers administered by OCHA used to subsidize rents for tenants facing a Housing conversion action or HUD enforcement actions against the owner not covered by enhanced vouchers – termination or non-renewal (by the Contract Administrator) of a Section 8 Project-based housing assistance payment contract, sale or foreclosure of a HUD-subsidized mortgage, or demolition/disposition of public housing under Section 18 of the United States Housing Act of 1937, as amended.

VAWA preference: A preference will be provided to anyone who currently resides in OCHA's public housing program who qualifies for an emergency transfer to OCHA's HCV program under VAWA requirements. In order to qualify:

- The individual must currently reside in an OCHA public housing unit;
- The individual must claim VAWA protections;

- The individual must document in accordance with requirements in Chapter 16 of OCHA's Administrative Plan and Admissions and Continued Occupancy Policy that they are a victim of domestic violence, dating violence, sexual assault or stalking;
- The individual must expressly request an emergency transfer in accordance with OCHA's public housing emergency transfer plan;
- The individual must reasonably believe they are threatened with imminent harm from further violence if they remain in their current unit or be a victim of sexual assault and the assault occurred on the premises during the 90-day-calendar period before the transfer is requested; and
- The OCHA has no safe, available public housing units for which the tenant who needs an emergency transfer is eligible.

Rental Assistance Demonstration (RAD) Choice Mobility Preference: As required by HUD and in accordance with all HUD RAD guidelines, OCHA will provide a Choice-Mobility option to residents of covered RAD projects in accordance with policies outlined in Chapter 18 of this HCV Administrative Plan.

City of Oklahoma City COC: OCHA shall commit up to 100 HCV to provide rental assistance to homeless families referred by the Oklahoma Homeless Alliance who, at a minimum, meet HUD's definition of homeless. Commitment of these vouchers shall be contingent upon available funding and an adequate supply of available vouchers (may not exceed OCHA's authorized baseline for the HCV program).

- Families referred by the Oklahoma Homeless Alliance must meet OCHA's eligibility requirements for the HCV program in order to receive assistance.
- Families referred by the Oklahoma Homeless Alliance will be required to complete an on-line application for the HCV program.

Homeless Preference for Admission: OCHA gives a preference to no more than 100 applicant households meeting all of the following criteria:

- Are referred to OCHA by a homeless service provider with whom OCHA has executed a Memorandum of Understanding (MOU) outlining the provider's responsibilities with respect to the provision of housing search assistance and supportive services for the referred household;
- Meets OCHA's definition of homeless unless stated otherwise in an executed MOU or MOA;
- Have received a written commitment from the referring homeless service provider for housing search assistance;
- Have received a written commitment from the homeless service provider for supportive services to help the household's transition from homelessness to permanent housing; and
- Have received a written commitment from the homeless service provider for supportive services to help the household comply with Housing Choice Voucher program rules.

This preference shall be limited to applicants who have been certified as meeting the criteria for this preference by the homeless service providers noted above. Applicants shall first be referred to these providers who will then provide a certified referral to OCHA. If it is determined that an applicant referred by a homeless service provider, as described above, does not meet the criteria described therein, the applicant is removed from the waiting list, but retains their place on any OCHA waiting lists they were on prior to their referral by the service provider.

This preference includes Supported Housing Programs/Rapid Re-Housing/HOME/other federal or local programs into permanent housing will be included as a priority group as part of this preference.

City of Oklahoma City Decampment Program OCHA gives a preference for no more than 50 vouchers per year for two years for utilization of housing homeless encampment tenants identified by the City of Oklahoma City.

As authorized by the Executive Director, families who are defined as a "displaced person" and have been affected by a State or federally declared disaster.

- Displaced person is defined as 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.

If OCHA denies an applicant's preference claim, OCHA notifies the applicant and referring service provider in writing, including the reason(s) for the preference denial.

Unless otherwise specified in a Memorandum of Agreement with OCHA, the definition of homelessness includes:

- An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - 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;
  - 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
  - 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;
- An individual or family who will imminently lose their primary nighttime residence, provided that:
  - The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - No subsequent residence has been identified; and
  - 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;
- 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:
  - Are defined as homeless by other government regulations;
  - 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;
  - 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
  - Can be expected to continue in such status for an extended period of time; or
- Any individual or family who:
  - 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;
  - Has no other residence; and
  - Lacks the resources or support networks to obtain other permanent housing.

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 OCHA'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, OCHA may skip non-ELI families on the waiting list in order to select an ELI family.

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

Order of Selection

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify. 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 OCHA.

4-III.D. NOTIFICATION OF SELECTION

OCHA will notify the family by mail and e-mail when it is selected from the waiting list. The notice will inform the family of the following [24 CFR 982.554(a)]:

- Date the complete application must be completed by, including any procedures for requesting assistance;
- Documents that must be provided to document the legal identity of household members, including information about what constitutes acceptable documentation; and
- Other documents and information that should be uploaded to the portal.

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

4-III.E. THE APPLICATION

Families selected from the waiting list are not required to participate in an eligibility interview.

The interview will be conducted only if requested as a reasonable accommodation by the head of household or spouse/cohead.

Pending disclosure and documentation of social security numbers, OCHA will allow the family to retain its place on the waiting list for six (6) months. If not all household members have disclosed their SSNs at the next time OCHA is issuing vouchers, OCHA 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, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, OCHA 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 must be provided within ten (10) business days. (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status.) If the family is unable to obtain the information or materials 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 (See Chapter 3).

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

For limited English proficient (LEP) applicants, OCHA will provide translation services in accordance with OCHA's LEP plan.

Reasonable accommodation must be made for persons with disabilities who are unable to complete the application process due to their disability.

If the family does not complete the application process, OCHA will remove the applicant(s) from the waiting list. Applicants who contact OCHA within sixty (60) days will be required to provide a written statement for failure to complete the application process. Applicants who fail to contact OCHA within sixty (60) days will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

If OCHA determines that the family is ineligible, OCHA will send written notification of the ineligibility determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If OCHA determines that the family is eligible to receive assistance, OCHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process.

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

> Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements.
>
> Part II: Subsidy Standards and Voucher Issuance. This part discusses OCHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

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

Notification of Briefing

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

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will be sent by first class mail and will also be sent by email if the family has provided a valid email address to OCHA.

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings as addressed in relevant policy elsewhere in this section.

If the notice is returned by the post office with no forwarding address, the applicant will be dropped and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be denied assistance (see Chapter 3). Applicants that contact OCHA within sixty (60) days of the briefing will be re-scheduled for another briefing.

In-Person Briefings

At the briefing, OCHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

In-person briefings will generally be conducted in group meetings. At the family's written request, OCHA may provide an individual briefing.

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

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

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

Attendance

Applicants who fail to attend a scheduled in-person briefing will be scheduled for another briefing automatically. OCHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior OCHA approval, will be denied assistance (see Chapter 3).

Remote Briefings [Notice PIH 2020-32]

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

OCHA 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 OCHA schedules a remote briefing, OCHA will conduct an individual 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, OCHA 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. OCHA 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, OCHA may not hold against the individual their inability to participate in the remote briefing, and OCHA 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. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings.

Conducting Remote Briefings

OCHA 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 OCHA. OCHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

At least ten (10) business days prior to scheduling the remote briefing, OCHA 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 OCHA 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, OCHA will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family. OCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend a one-on-one briefing over the phone, as appropriate.

OCHA 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.

OCHA 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. OCHA will provide a paper copy of the briefing packet upon family request.

OCHA 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.

OCHA 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 OCHA.

Oral Briefing [24 CFR 982.301(a)]

OCHA staff will provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside OCHA's jurisdiction;
- An explanation of how portability works. OCHA may not discourage the family from choosing to live anywhere in OCHA's jurisdiction or outside OCHA's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- OCHA will 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;
- An explanation of how portability works. OCHA may not discourage the family from choosing to live anywhere in OCHA's jurisdiction or outside OCHA's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order; and
- The advantages of areas that do not have a high concentration of low-income families.

In briefing a family that includes a person with disabilities, OCHA must also take steps to ensure effective communication.

Briefing Packet [24 CFR 982.301(b); New HCV GB, Housing Search and Leasing, p. 7]

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

- The term of the voucher, voucher suspensions and OCHA's policies on any extensions of the term and how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how OCHA determines the payment standard for a family, how OCHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how OCHA 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 "Request for Tenancy Approval" 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 OCHA policy on providing information about families to prospective owners.
- OCHA 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 (e.g., HUD brochure entitled, "A Good Place to Live").
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- A list of websites that landlords known to OCHA who may be willing to lease a unit to the family. OCHA must ensure that the 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 OCHA.
- The family obligations under the program, including any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which OCHA may terminate assistance for a participant family because of family action or failure to act. OCHA informal hearing procedures including when OCHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers.
- Information on how to fill out and file a housing discrimination complaint form.
- "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19.
- The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contain information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.
- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the HCV regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

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

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

Family Obligations [24 CFR 982.551]

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

- The family must supply any information that OCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by OCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow OCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
    - *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 or not 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)].
- The family must notify OCHA and the owner before moving out of the unit or terminating the lease.
- The family must promptly give OCHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by OCHA. The family must promptly notify OCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request OCHA approval to add any other family member as an occupant of the unit.
    - The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. OCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
- The family must promptly notify OCHA in writing if any family member no longer lives in the unit.
- If OCHA has given approval, a foster child or a live-in aide may reside in the unit.
- The family must not sublease the unit, assign the lease, or transfer the unit.
    - Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by OCHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify OCHA when the family is absent from the unit for an extended period.
    - An extended period is defined as any period greater than thirty (30) calendar days. Written notice must be provided to OCHA at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

- The family must not own or have any interest in the unit.
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information.)
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and OCHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and OCHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless OCHA 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.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

OCHA will establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. OCHA will also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of that term.

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

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

The following requirements apply when OCHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the Housing Quality Standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by OCHA to reside in the unit to care for a family member who is disabled) must be counted in determining the family unit size. No additional bedrooms are provided for the live-in aide's family.
- No more than two persons shall be required to occupy a bedroom.
- Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults shall not be required to share a bedroom.
    - *Generation* means you are in the family generation as your siblings and cousins, whereas your parents are in the generation before you and so on. If you have children of your own, they belong to the next generation.

- Children, with the exception of infants under twelve (12) months of age, shall not be required to share a bedroom with persons of different generations including their parents.
- A child shall not be required to share a bedroom with another child five (5) years of age or older that is of the opposite sex; however, children of the same sex and generation shall be required to share a bedroom regardless of age.
- Foster children will be included in determining unit size only if they will be in the unit for more than six (6) months.
- Space will not be provided for a child who is away at school but who lives with the family during school recess.
- Space will not be provided for a family member who will be absent for most of the time, such as a member who is away in the military.
- Space will not be provided for a child subject to a custody agreement who is with the family less than fifty-one (51%) percent of the time (183 days).
- Separate bedrooms may be provided for individual family members with a disability if needed as a reasonable accommodation. Such requests by the family must be submitted in writing and the need of the reasonable accommodation verified as outlined in Chapter 2.
- 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 OCHA subsidy standards.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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)].

Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment; and/or
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition.

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

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

The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

OCHA will notify the family of its determination after receiving and reviewing the family's request. If a participant family's request is denied, OCHA will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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 OCHA has determined the family to be eligible for the program. However, OCHA 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 OCHA's HCV program.

Vouchers will be issued to eligible applicants after verifying the family's composition, income, allowances and following the mandatory briefing.

If there is an addition to the family's household after the voucher has been issued, OCHA will not issue the family a larger voucher because of an addition to the family's household until the family's annual recertification; unless the addition is due to birth, adoption of a minor, or court-awarded custody of a minor.

No changes will be made to the applicant or participant records while in possession of a voucher.

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

5-II.E. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]

The initial voucher term will be sixty (60) calendar days.

The family must submit a Request for Tenancy Approval within the 60-day period unless OCHA grants an extension.

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

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

Extensions shall not be approved for more than thirty (30) days at a time upon written request from the family.

Extensions will be given based on actual number of days.

Extensions will not exceed sixty (60) days, unless additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities.

Extensions must be for good cause.

- Good cause examples: (The presence of these circumstances does not guarantee that an extension will be granted)
  - Serious illness or death in the family;
  - Other family emergency;
  - Whether family size or other special requirements make finding a unit difficult; and
  - When waiting for the landlord to complete HQS requirements on a failed unit.

Any request for an additional extension must include the reason(s) an additional extension is necessary. OCHA may require the family to provide documentation to support the request.

The family will be notified in writing of OCHA's decision to approve or deny an extension. OCHA'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)].

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

OCHA will provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for OCHA approval of the tenancy until the date OCHA notifies the family whether the request has been approved or denied

Expiration of Voucher Term

If a family's voucher term or extension expires before OCHA has approved a tenancy, OCHA will require the family to reapply for assistance.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS
[24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and OCHA's subsidy. This chapter describes HUD regulations and OCHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and OCHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established, HUD regulations require OCHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and OCHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining OCHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* is shown below.

24 CFR 5.609 Annual income:

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

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

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

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Fully Excluded Income (PIH Notice 2013-4)

OCHA will not require verification of fully excluded income such as SNAPS (formerly food stamps), foster care, live-in aide income, unless the family is a zero income household.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

Generally an individual who is or is expected to be absent from the assisted unit for sixty (60) consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than sixty (60) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

Absences Due to Placement in Foster Care

If a child has been placed in foster care, OCHA 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.

Absent Head, Spouse, or Co-head

An employed head, spouse, or co-head absent from the unit more than sixty (60) consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member. OCHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

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

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependent(s). If there is a dispute about which family should claim them, OCHA will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, OCHA will take the following actions:

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

When EIV is obtained and the family does not dispute the EIV employer data, OCHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the family must provide the last six (6) current and consecutive pay stubs.

OCHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other Upfront Income Verification (UIV) data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If OCHA determines additional information is needed.

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

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

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

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

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

- Sporadic income is income that is not received periodically and cannot be reliably predicted.

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

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

Income Earned under Certain Federal Programs

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

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

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for OCHA 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 OCHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

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

Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income.

Earned Income Tax Credit

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

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]

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. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

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

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, OCHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

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

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

Business Expenses

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

Business Expansion

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

- *Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations.

Capital Indebtedness

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

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

Co-owned Businesses

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

6-I.G. ASSETS [24 CFR 5.609(b)(3); 24 CFR 5.603(b)]

Overview

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

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

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

OCHA will use current circumstances to determine both the value of an asset and the anticipated income from the asset.

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

Valuing Assets

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

- The *market value* of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The *cash value* of an asset is its market value less all reasonable costs that would be incurred when converting the asset to cash.
    - *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.

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). (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

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

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

Notice PIH 2012-29 requires OCHA to establish an imputed asset passbook savings rate based on the national average rate. The rate was previously established by the HUD field offices.

OCHA will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

OCHA will review the passbook rate annually. The rate will not be adjusted unless the current OCHA 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.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

If an asset is owned by more than one person and any family member has unrestricted access to the asset, OCHA will count the full value of the asset. A family member has unrestricted access to an asset when ~~he or she~~ they 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, OCHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, OCHA will prorate the asset evenly among all owners.

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

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

Minimum Threshold

OCHA 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.

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

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

Separation or Divorce

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

Foreclosure or Bankruptcy

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

Family Declaration

Families must sign a declaration form at initial certification and each 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. OCHA may verify the value of the assets disposed of if other information available to OCHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

In determining the value of checking and savings accounts, OCHA will use the average monthly balance for the last six (6) months.

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

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

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

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), OCHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

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

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

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

OCHA 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].

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.

Trusts

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

Revocable Trusts

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

Non-revocable Trusts

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

Retirement Accounts

Company Retirement/Pension Accounts

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

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

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

IRA, Keogh, and Similar Retirement Savings Accounts

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

Personal Property

In determining the value of personal property held as an investment, OCHA will use the family's estimate of the value. OCHA 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 fifty ($50) dollars 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 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 [24 CFR 5.603(b)].

Life Insurance

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

6-I.H. PERIODIC PAYMENTS

Periodic Payments <u>Included</u> in Annual Income

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

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

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

Treatment of Overpayment Deductions from Social Security Benefits

OCHA will make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their 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, OCHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Periodic Payments <u>Excluded</u> from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. OCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income.

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [CFR 5.609(c)(14)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

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

6-I.J. WELFARE ASSISTANCE

Overview

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

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

OCHA will make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

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

Imputed Income

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

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

Offsets

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

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

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

Alimony and Child Support

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

OCHA will count court-awarded amounts for alimony and child support unless OCHA 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.

Regular Contributions or Gifts

OCHA will 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 OCHA. For contributions that may vary from month to month (e.g., utility payments), OCHA will include an average amount based upon past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9); Notice PIH 2015-21]

Student Financial Assistance <u>Included</u> in Annual Income [24 CFR 5.609(b)(9); 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 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, OCHA will use the definitions of *dependent child, institution of higher education,* and *parents* in Section 3-II.E, along with the following definitions:

- *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 manner in which 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.

Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance;
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of institution of higher education*;*
- Students who are over 23 **AND** have at least one dependent child, as defined in Section 3-II.E;
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)];
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)];
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)];
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)];
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)];
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)];
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)];
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));
  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC;
  (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
  (e) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

(g) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).);

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts;

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

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

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.* for a period of one (1) year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010;

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

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs);

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

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

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects and children of certain Korean service veterans born with spinal bifida;

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

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

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

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

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See See Section 6-I.L. for exceptions.);

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

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

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002;

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a));

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

(aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance.

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

(1) $480 for each dependent;

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

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

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

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

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

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

Anticipating Expenses

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

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

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)].

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)].

- An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

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

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

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

Definition of *Medical Expenses*

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

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

Earned Income Limit on the Disability Assistance Expense Deduction

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, OCHA 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. [24 CFR 5.603(b)]

When OCHA 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. [24 CFR 5.611(a)(3)(ii)]

Eligible Disability Expenses

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.

- Examples of auxiliary apparatus are 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".

The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

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

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Clarifying the Meaning of *Child* for This Deduction

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity.

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

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

Seeking Work

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

Furthering Education

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

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

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

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

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

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. OCHA will not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

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, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

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 their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

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

To establish the reasonableness of child care costs, OCHA will use the schedule of child care costs from a qualified local entity that either subsidizes child care or licenses child care providers. Families may present, and OCHA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND OCHA SUBSIDY

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

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II);
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12); and/or
- A minimum rent of $50 that is established by OCHA.

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

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

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent is fifty ($50) dollars.

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 OCHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy OCHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income.

OCHA Subsidy [24 CFR 982.505(b)]

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

Utility Reimbursement [24 CFR 982.514(b)]

When OCHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. OCHA will pay the reimbursement to the family.

OCHA will issue all utility reimbursements monthly.

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

Overview

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

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

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.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

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.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

In order 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).

Implementation of Hardship Exemption

Determination of Hardship

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

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 OCHA 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.

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

OCHA defines temporary hardship as a hardship expected to last ninety (90) days or less. Long-term hardship is defined as a hardship expected to last more than ninety (90) days.

No Financial Hardship

If OCHA determines there is no financial hardship, OCHA will reinstate the minimum rent and require the family to repay the amounts suspended.

Temporary Hardship

If OCHA determines that a qualifying financial hardship is temporary, OCHA will suspend the minimum rent for the ninety (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 ninety (90) day suspension period, the family must resume payment of the minimum rent and must repay OCHA the amounts suspended. OCHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan. OCHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

Long-Term Hardship

If OCHA determines that the financial hardship is long-term, OCHA will 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.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]

Overview

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

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

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

OCHA is required to pay a monthly 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.

Changes in Payment Standards

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

Decreases

If OCHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, OCHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if OCHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may 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 payment standard amount. At that point, OCHA may either reduce the payment standard to the current amount in effect on OCHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. OCHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, OCHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. OCHA's policy on decreases in the payment standard 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 payment standard within the designated area.

Decrease resulting from insufficient funding

If OCHA determines that it has insufficient funding with which to continue to assist families served by the program, it may consider immediately decreasing the Payment Standard upon authorization from HUD. The reduced payment standard would apply to Project-Based units as well as tenant-based. OCHA will consider and implement other cost-saving measures wherever feasible before considering lowering the Payment Standard in consideration of the impact lowering the Payment Standard may have on families.

Increases

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

Families requiring or requesting interim reexaminations will ***not*** have their HAP payments calculated using the higher payment standard until their next annual reexamination.

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 payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, OCHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

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

Overview

An OCHA-established utility allowance schedule is used in determining family share and OCHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using OCHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on OCHA's subsidy standards.

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

Reasonable Accommodation

The family must request a higher utility allowance and provide OCHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required.

Utility Allowance Revisions

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. [24 CFR 982.517(d)(2)]

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

HUD regulations prohibit assistance to ineligible family members.

- A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members.

OCHA must prorate the assistance provided to a mixed family. OCHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible.

- For example, if OCHA subsidy for a family is calculated at $500 and two of four family members are ineligible, OCHA subsidy would be reduced to $25

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2018-18]

INTRODUCTION

OCHA will verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. OCHA must not pass on the cost of verification to the family.

OCHA will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary OCHA policies.

This chapter contains four parts:

Part I General Verification Process

Part II Verifying Family Information

Part III Verifying Income and Assets

Part IV Verifying Mandatory Deductions

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of OCHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

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

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, OCHA 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 OCHA procedures.

7-I.B. CRIMINAL HISTORY BACKGROUND CHECKS

As authorized by 24 CFR 5.903; 24 CFR 982.553 and 43 USC 13663 OCHA verifies the criminal history of all adults, live-in aides and adult foster children at the time of program admission; admission to the assisted household; who port into the jurisdiction of OCHA; annual reexamination; interim reexamination and may verify the criminal history of all adults, live-in aides and adult foster children in the household on a regular basis. Criminal history includes any family member subject to a lifetime sex offender registration requirement of a state sex offender registration program.

OCHA will perform a criminal history background check to determine if any household member has engaged in any drug-related criminal activity; any violent criminal activity; or any other criminal activity that would threaten the health, safety, welfare, or right to peaceful enjoyment of other residents, the owner, or OCHA staff.

OCHA may deny admission or terminate assistance to a person who does not provide accurate and complete information or who does not cooperate in the process.

In all cases where criminal records or sex offender registration information would result in termination, OCHA will terminate the family's assistance in accordance with Chapter 12.

All criminal records will be maintained in accordance with Section 16-VI.C. Criminal records.

7-I.C. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

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

In order of priority, the forms of verification that OCHA will use are:

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

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and must be dated within thirty (30) days of OCHA's request. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

OCHA staff member who views the original document must make a photocopy and date stamp the document.

Any family self-certifications must be made in a format acceptable to OCHA and must be signed by the family member whose information or status is being verified.

File Documentation

OCHA will 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 OCHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

When OCHA is unable to obtain third party verification, OCHA 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].

7-I.D. UP-FRONT INCOME VERIFICATION (UIV)

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

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until OCHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of OCHA.

See Chapter 6 for OCHA's policy on the use of UIV/EIV to project annual income.

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

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

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.

OCHA will obtain income and IVT reports for annual reexaminations on a monthly basis. 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, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third-party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

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

EIV Discrepancy Reports

The EIV discrepancy report is a tool for identifying families who may have concealed or under-reported income.

OCHA will generate the Income Discrepancy Report at least once every six (6) months.

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

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

EIV Identity Verification

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

OCHA is required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

OCHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

OCHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When OCHA determines that discrepancies exist due to OCHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

7-I.E. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Written Third-Party Verification

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.

OCHA 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.

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

Third-party documents provided by the family must be dated within the past thirty (30) days.

As verification of earned income, OCHA will request the last six (6) consecutive pay stubs. At OCHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), OCHA may request additional paystubs or a payroll record.

Written Third-Party Verification Form

OCHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by OCHA.

Oral Third-Party Verification

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 (four (4) weeks).

OCHA 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.

When Third-Party Verification is Not Required

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

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

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

OCHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling $5,000 or less, OCHA may accept the family's declaration of asset value and anticipated asset income. However, OCHA 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.

7-I.F. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when OCHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded.
- Net family assets total $5,000 or less and OCHA has adopted a policy to accept self-certification at annual recertification, when applicable.
- If OCHA adopts a policy to implement streamlined annual recertifications for fixed sources of income.

When OCHA 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.

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

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

The self-certification must be made in a format acceptable to OCHA and must be signed by the family member whose information or status is being verified.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

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

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

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

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where OCHA has reason to doubt the identity of a person representing themselves to be a participant.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of 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 a SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

OCHA will 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; and/or
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual.

OCHA will reject documentation of a SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

OCHA 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 OCHA within ninety (90) days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within ninety (90) calendar days from the date of admission into the program. OCHA will grant one additional ninety (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.

If an applicant family includes a child under six (6) years of age who joined the household within the six (6) months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within ninety (90) days of the effective date of the initial HAP contract.

A ninety (90) day extension will be granted if OCHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

When the participant requests to add a new household member who is at least six (6) years of age, or who is under the age of six (6) and has a 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. OCHA will 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 six (6) and has not been assigned a SSN, the participant must provide the SSN assigned to each new child and the required documentation within ninety (90) calendar days of the child being added to the household. During the period OCHA 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.

OCHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers; and/or
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Once an individual's status is classified as "verified" in HUD's EIV system, OCHA may remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

Extensions

OCHA will grant one additional ninety (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, OCHA will *terminate* the individual's assistance.

7-II.C. 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 cannot be provided, OCHA 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.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

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

Separation or Divorce

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.

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), if OCHA so request.

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.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

OCHA 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 child care expenses to enable a family member to further their education.
- The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

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

In accordance with the verification hierarchy described in Section 7-I.B., OCHA 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 OCHA cannot verify at least one of these exemption criteria, OCHA 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, OCHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from their parents (see below).

Independent Student

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

- Both reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of independent student (see Section 3-II.E);
- Reviewing 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 (see section 3-II.E); and
- 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 OCHA determines that the student is a vulnerable youth (see section 3-II.E).

7-II.F. DOCUMENTATION OF DISABILITY

Family Members Receiving SSA Disability Benefits

For family members claiming disability who receive disability benefits from the SSA, OCHA 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, OCHA 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), OCHA 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 OCHA.

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.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

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

The family must provide 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 the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

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

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

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 7-1 at the end of this chapter summarizes documents family members must provide.

OCHA Verification

For family members age 62 or older who claim to be eligible immigrants, no further verification of eligible immigration status is required.

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

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

OCHA will verify any preferences claimed by an applicant.

PART III: VERIFYING INCOME AND ASSETS

Any assets and income reported by the family must be verified. This part provides OCHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

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.

Wages

For wages other than tips, the family must provide originals of the six (6) most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

At any reexamination OCHA 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, OCHA 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 OCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To ensure consistency in the determination of annual Social Security and SSI income, OCHA is required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24].

To verify the SS/SSI benefits of applicants, OCHA will request a current (dated within the last thirty (30) days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), OCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter they will be required to provide it to OCHA.

To verify the SS/SSI benefits of participants, OCHA 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, OCHA 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) OCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to OCHA.

7-III.D. ALIMONY OR CHILD SUPPORT

If the family declares that it ***receives regular payments***, verification will be sought in the following order:

- Third-party verification form from the state or local child support enforcement agency;
- Third-party verification form from the person paying the support;
- Copy of the receipts and/or payment stubs for the sixty (60) days prior to OCHA's request;

- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it ***receives irregular or no payments***, the above verification process listed will be followed.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two (2) years. OCHA only needs to verify those certifications that warrant documentation.

7-III.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, OCHA 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.

7-III.G. RETIREMENT ACCOUNTS

OCHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

OCHA will reconcile differences in amounts reported by the third-party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, OCHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

OCHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

7-III.J. STUDENT FINANCIAL ASSISTANCE

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)].

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 (institutions of higher education is defined in section 102 of the Higher Education Act of 1965.). Excluded amounts are verified only if, without verification, OCHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), OCHA 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, OCHA will request written verification of the student's tuition, fees and other required charges. If OCHA is unable to obtain third-party written verification of the requested information, OCHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with OCHA 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 OCHA is required to determine the income eligibility of a student's parents, OCHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). OCHA 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 OCHA. The required information must be submitted within ten (10) business days of the date of OCHA's request or within any extended timeframe approved by OCHA.

OCHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that OCHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

OCHA will 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 ; and
- 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

OCHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- OCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. OCHA 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, OCHA will 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.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for OCHA's policy on what counts as a medical expense.

Unreimbursed Expenses

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on going payment of medical bills incurred in past years, OCHA 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.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Amount of Expense

Attendant Care

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 twelve (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 twelve (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 twelve (12) months.

In addition, OCHA will verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

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. OCHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

OCHA 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.

Unreimbursed Expenses

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.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification proceduresdescribed in Part I of this chapter. In addition, OCHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of thirteen (13). OCHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

OCHA will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

OCHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

OCHA 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).

OCHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with OCHA'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, OCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or " Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*.

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits OCHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and OCHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, OCHA could establish a policy for performing unit inspections biennially rather than annually. This policy can apply to some or all assisted units. OCHA still has the option to inspect every unit annually.

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

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

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections OCHA will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies OCHA will use to make rent reasonableness determinations.

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

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Access;
- Site and neighborhood;
- Sanitary condition;

- Smoke detectors; and
- Lead-based paint.

Sanitary Facilities

Performance requirements:

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.

Acceptability criteria:

The bathroom must be located in a separate private room and have a flush toilet in proper operating condition. The dwelling unit must have a fixed basin in proper operating condition with a sink trap and hot and cold running water. The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water. The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

Food Preparation and Refuse Disposal

Performance requirements:

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Acceptability criteria:

The dwelling unit must have an oven and stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the family. 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. 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. The dwelling unit must have space for the storage, preparation, and serving of food. 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

Performance requirements:

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.

Acceptability criteria:

At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom. The dwelling unit must 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 and properly sealed shut are acceptable, only if these windows are not needed for ventilation or as an alternate exit in case of fire. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

Thermal Environment

Performance requirements:

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.

Illumination and Electricity

Performance requirements:

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. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference. The electrical fixtures and wiring must ensure safety from fire.

Acceptability criteria:

Minimum standards are set for different types of rooms:

- There must be at least one window in the living room and in each sleeping room (must operate properly if designed to open).
- 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.
- 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.
- All other rooms used for living require a means of natural or artificial illumination such as a window, a permanent light fixture or an electrical outlet.

Electrical outlets:

- Must be permanently installed in the wall, baseboard or floor.
- Must be properly installed in accordance with current electrical codes, i.e. three prong outlets must be properly grounded.
- Special purpose outlets, i.e. for window air conditioners, dryers, etc., do not count as an outlet.

Structure and Materials

Performance requirements:

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. 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.

Acceptability criteria:

- 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.
- The roof must be structurally sound and weather tight.
- 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.
- The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.

Interior Air Quality

Performance requirements:

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 (1) openable window or other adequate ventilation. Any sleeping room must have at least one (1) window. If a window was designed to be opened, it must be in proper working order.

Water Supply

Performance requirements:

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.

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

Performance requirements:

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.

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 backups 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.

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

Each dwelling unit must have at least one (1) battery-operated or hard-wired 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 person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Carbon Monoxide (CO) Detectors or Alarms (PIH Notice 2022-1, effective December 27, 2022)

CO alarms or detectors must be installed in all units that contain a fuel-burning appliance, a fuel-burning fireplace, or an attached garage. CO alarms or detectors must be installed outside all sleeping rooms unless a fuel-burning appliance is located within the sleeping room then the CO alarm or detector must be installed within the sleeping room. CO alarm or detector must also be installed in all units that have an attached garage, at the opening between the unit and attached garage, regardless if the unit has any fuel-burning appliances or a fuel-burning fireplace.

Units exempt from this requirement are units that do not contain a fuel-burning appliance, fuel-burning fireplace or an attached garage.

CO alarms or detectors shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720-2015 and the manufacturer's instructions.

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

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 less than six (6) years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed;
- Provide all prospective families with "Protect Your Family from Lead in Your Home";
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by OCHA;

- Notify tenants each time such an activity is performed;
- Conduct all work in accordance with HUD safe practices; and
- As part of ongoing maintenance ask each family to report deteriorated paint.

The purpose of this Section is to implement section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning for units assisted under this part. This Section is issued under 24 CFR 35.24 (b)(4) and supersedes, for all housing to which it applies, the requirements of subpart C of 24 CFR part 35.

The requirements of this Section do not apply to 0-bedroom units, units that are certified by a qualified inspector to be free of lead-based paint, or units designated exclusively for elderly. The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a HAP contract under part 982.

Definitions

- Chewable surface: Protruding painted surfaces up to five (5) feet from the floor or ground that are readily accessible to children under six (6) years of age; for example, protruding corners, window sills, and frames, doors and frames, and other protruding woodwork.
- Component: An element of a residential structure identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, and stair treads in a common stairwell, or an exterior wall.
- Defective paint surface: A surface on which the paint is cracking, scaling, chipping, peeling, or loose.
- Elevated blood lead level (EBL): Excessive absorption is a confirmed concentration of lead in whole blood of 20 µg/dl (micrograms of lead per deciliter) for a single test or of 15-19 µg/dl in two consecutive tests 3-4 months apart.
- HEPA: Means a high efficiency particle accumulator as used in lead abatement vacuum cleaners.
- Lead-based paint: A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared (mg/cm2), or 0.5 percent by weight or 5000 parts per million (PPM).

Requirements for pre-1978 units with children under the age of six (6) years

If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six (6) years, the initial and each periodic inspection (as required under this part), must include a visual inspection for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with paragraph j.6 of this Section.

OCHA may exempt from such treatment defective paint surfaces that are found in a report by a qualified lead-based paint inspector not to be lead-based paint, as defined in this Section. For purposes of this section, a qualified lead-based paint inspector is a State or local health or housing agency, a lead-based paint inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD.

Treatment of defective paint surfaces required under this section must be completed within thirty (30) calendar days of OCHA notification to the owner. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces within the thirty (30) day period, treatment as required by this Section may be delayed for a period not to exceed ninety (90) days.

The requirements in this Section apply to:

- All painted interior surfaces within the unit (excluding furniture);
- The entrance and hallway providing ingress or egress to a unit in a multi-unit building;
- Exterior surfaces including walls, stairs, decks, porches, railings, windows, doors and including all outbuildings i.e. garages and sheds.

Additional requirements for pre-1978 units with children under six (6) with an EBL

In addition to the requirements of this Section, for a dwelling unit constructed before 1978 that is occupied by a family with a child under the age of six (6) years with an identified EBL condition, the initial and each periodic inspection (as required under this part) must include a test for lead-based paint on chewable surfaces. Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.

Testing must be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, treatment of the paint surface in accordance with this Section is required, and treatment shall be completed within the time limits in this Section.

Treatment of chewable surfaces without testing

In lieu of the procedures set forth in this Section, OCHA may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in this Section.

Treatment methods and requirements

Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

A defective paint surface shall be treated if the total area of defective paint on any *component* is:

- More than twenty (20) square feet on an exterior wall;
- More than two (2) square feet on an interior or exterior component with the large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors and interior walls;
- More than ten (10%) percent of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, window sills, baseboards and trim.

Acceptable methods of treatment are: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infrared or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydro blasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

Prohibited methods of removal are: open flame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained hydro blasting or high pressure wash; and dry scraping except around electrical outlets or except when treating defective paint spots no more than two (2) square feet in any one (1) interior room or space (hallway, pantry, etc.) or totaling no more than twenty (20) square feet on exterior surfaces.

During exterior treatment soil and playground equipment must be protected from contamination.

All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

Waste and debris must be disposed of in accordance with all applicable federal, state and local laws.

Tenant protection

The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.

Owner information responsibilities

Prior to execution of the HAP contract, the owner must inform OCHA and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.

8-I.B. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.730]

If OCHA 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 (6) years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, OCHA must complete environmental investigation of the dwelling unit within fifteen (15) days. 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 thirty (30) days after receiving the environmental investigation report from OCHA, 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 OCHA will take action in accordance with Section 8-II.G.

OCHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

Tenant Preference Items

HUD requires OCHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, OCHA will ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *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.
- *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.
- *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *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, smoke detectors and carbon dioxide detectors.

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]

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)]

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to OCHA for review.

8-I.C. ADDITIONAL OCHA REQUIREMENTS

OCHA's additional quality standards approved by HUD:

- All rooms designed for sleeping must have a closeable door for privacy and a closet suitable for storage of family belongings; and
- All hot water heaters must be enclosed; must be equipped with a temperature/pressure relief valve with a three quarter (¾") inch rigid pipe or approved PEX (permanently fixed to prevent whipping) drain line extending to within six (6") inches of the *floor* or *approved permanent drain*.
- Beginning January 1, 2023, Portable fire extinguishers must be installed in all multi-family residential occupancies and shall conform to the current International Fire Code (IFC) and National Fire Protection Association (NFPA) 10-Standard for Portable Fire Extinguishers, 2002 edition.
    - *Multi-family residential occupancies* is defined as any property that has three (3) or more rental occupancies.
- The requirements for fire extinguishers are as follows:
    - One 2-A:10-B:C or higher rated fire extinguisher:
        a. Required for laundry room, boiler room, office, maintenance area, pool chemical storage room and clubhouse.
        b. Mounted in conspicuous, accessible locations with a maximum travel distance of 75 feet from any apartment. (see b.1. below)
        c. Fire extinguishers shall be serviced annually and shall have a current service tag attached.
        d. Must be maintained by the property owner.
        e. Must be immediately replaced by the property owner if vandalized.
        f. Must be recharged every six (6) years or when indicated on gauge, whichever is sooner.
    - One 1-A:10-B:C or higher rated fire extinguisher:
        a. Can be inside each unit in place of the 2-A:10-B:C in a common area (see a.2. above).
        b. Are not required to be serviced every year.
        c. Never require recharging, good for ten (10) years.
        d. Can be placed under the sink in the kitchen of each unit.
        e. No mounting brackets required.
        f. Must be maintained by the tenant.
        g. Property owner can recover cost from tenant if extinguisher is missing/vandalized.

HUD approval is not required if OCHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

As permitted by HUD, OCHA has adopted the following specific requirements that elaborate on HUD standards.

Walls/Ceilings

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition.

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have functioning stoppers.

Toilets

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system. If not equipped with a quick release system they must be removed to allow emergency exit.

8-I.D. LIFE THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires OCHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of OCHA notification.

The following are considered life threatening conditions that must be corrected within twenty-four (24) hours of notification by OCHA:

- Any condition that jeopardizes the security of the unit;
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling;
- Natural or LP gas leaks;
- Any electrical problem or condition that could result in shock or fire;
- Absence of a working heating system when outside temperature does not exceed forty (40) degrees Fahrenheit for a period of 48 hours;

- Inoperable air conditioning system (when present) when the heat index, also known as the apparent temperature, is one hundred (100) degrees or above;
- Water utilities not in service, including no running hot water;
- Conditions that present the imminent possibility of injury;
- Conditions that present imminent health hazards;
- Obstacles that prevent safe entrance or exit from the unit;
- Absence of a functioning toilet in the unit;

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

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

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

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service;
- Failure to provide or maintain family-supplied appliances;
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

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

The owner will be required to repair an inoperable smoke detector unless OCHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

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

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. 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 OCHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, OCHA will issue the family a new voucher, and the family and OCHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, OCHA will terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

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

Types of Inspections

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

- *Initial Inspections.* OCHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual/Biennial Inspections*. HUD requires OCHA to inspect each unit under lease at least annually or biennially or biennially, depending on OCHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between biennial inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all Inspectors.

Inspection of OCHA-owned Units [24 CFR 982.352(b)]

OCHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in an OCHA-owned unit. An OCHA-owned unit is defined as a unit that is owned by OCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by OCHA). The independent agency must communicate the results of each inspection to the family and OCHA. The independent agency must be approved by HUD, and may be the unit of general local government for OCHA jurisdiction (unless OCHA is itself the unit of general local government or an agency of such government).

Inspection Costs [Notice PIH 2016-05]

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

OCHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, OCHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies OCHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to OCHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, OCHA may, but is not required to, 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 OCHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if OCHA chooses to implement RVIs, OCHA will have policies and procedures in place to address such limitations.

OCHA will not conduct any HQS inspection using RVI until policies and procedures are in place.

Notice and Scheduling

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

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than twenty-four (24) hours. Inspections may be scheduled between 8:00 a.m. and 5:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, OCHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

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

At initial inspection of a vacant unit, OCHA will inspect the unit in the presence of the owner or owner's representative. The tenant's presence is required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP contract.

OCHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RFTA). The fifteen (15) day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies by letter. The owner will have thirty (30) days to correct any deficiencies if the tenant's voucher is expired and sixty (60) days to correct any deficiencies if the tenant's voucher is valid. If requested by the owner, the time frame for correcting the deficiencies may be extended by OCHA for good cause. The owner must request a reinspection upon completion of the noted deficiencies.

If the time period for correcting the deficiencies (or any OCHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, OCHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. OCHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Utilities

At initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, OCHA 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 OCHA.

8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405; 982.406, Notice PIH 2016-05]

Scheduling the Inspection

Each unit under HAP contract must be inspected annually within twelve (12) months of the last full HQS inspection.

If the family cannot be present on the scheduled date, the family may request that OCHA reschedule the inspection. Any request to reschedule the inspection must be for good cause.

If the family misses the first scheduled appointment without OCHA approval, the family may request to have the inspection rescheduled. The family must provide a written request to reschedule, with the reason for missing the scheduled inspection. If the family misses two (2) scheduled inspections without OCHA approval, OCHA 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 with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

OCHA will conduct a special inspection if the owner, family, government official or another source reports HQS violations in the unit.

If the HQS violation is life threatening, (see 8-I.D. Life Threatening Conditions) which the owner would be required to repair within twenty-four (24) hours, then OCHA will inspect the unit within twenty-four (24) hours of when OCHA received the reported violation.

If the HQS violation is not life threatening then OCHA will inspect the unit within fifteen (15) days of when OCHA received the reported violation.

In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the twenty-four (24) hour or the fifteen (15) day inspection requirement until such time as an inspection is feasible.

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

If the annual inspection has been scheduled or is due within ninety (90) days of the date the special inspection is scheduled OCHA may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e)]

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

The universe referred to below is the number of units under HAP contract at the end of OCHA's previous fiscal year. Example: OCHA's fiscal year ends December 31, 2020.The SEMAP 2020 rating year for OCHA is January 1-December 31, 2020. The universe for this indicator is the number of units under HAP contract on December 31, 2019.

Universe minimum number of files or records to be quality control sampled:

Over 2000 = 30 plus 1 for each 200 (or part of 200) over 2000

The unit sample must include only units that have been inspected within the preceding three (3) months. The selected sample should be drawn to represent a cross-section of neighborhoods and the work of a cross section of inspectors.

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

Notification of Corrective Actions

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

When life threatening conditions are identified, OCHA will immediately notify both parties by email or phone and mail. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24-hours of OCHA's notice.

When failures that are not life threatening are identified, OCHA will send the owner and the family a written notification of the inspection results within five (5) business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than thirty (30) days will be allowed for the correction.

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

Self-Certification of Repairs by Owner and Tenant

OCHA reserves the right to allow owners and tenants to provide a self-certification of completion of repairs except for the following:

- Life threatening conditions identified in 8-I.D.;
- Non-operational refrigerator and/or range;
- Non-operational or missing smoke detector;
- Any repair related to the hot water tank;
- Any repair involving the presence of a mold like substance;
- Any type of water leak; and
- Lead based paint greater than de minimis.

OCHA may allow owners and tenants to self-certify that repair work has been competed in lieu of OCHA completing a reinspection. OCHA will provide landlords a "Housing Quality Standards (HQS) Repair Self-Certification" form to be submitted as verification that all HQS deficiencies have been corrected. The self-certification is allowed only for annual, complaint and quality control inspections, not for initial or other types of inspections. Self-certification requires the owner to complete all required repairs; inspect the unit to verify the tenant repairs (if any) are complete; sign the self-certification form and collect the tenant's signature verifying that all repairs are complete. The form must be signed by the landlord and tenant and returned on or before the scheduled completion date to avoid HAP abatement and/or tenant termination for tenant caused deficiencies.

OCHA reserves the right to require a reinspection on any and all units with fail items, regardless of whether landlords submit self-certification forms. OCHA reserves the right to deny the option of self-certification and require a reinspection if:

- the family or landlord forwards a written notice that the repairs where not completed as required by OCHA;
- there is any question regarding the integrity of the documentation provided; and
- the landlord/property has a repeated history of regular/repeat fails in the past.

If OCHA determines at a later date that the certified repairs were not made, therefore making the unit ineligible, OCHA reserves the right to collect back HAP payments for the total amount of time that the unit was ineligible; terminate the HAP contract; and any other rights and remedies for owner breach of the HAP contract.

Reinspections

OCHA will conduct a reinspection immediately following the end of the corrective period, or any OCHA-approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, OCHA 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 OCHA policies. If OCHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, OCHA 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 with Chapter 12.

Extensions

For conditions that are life-threatening, OCHA cannot grant an extension to the 24-hour corrective action period.

For conditions that are not life-threatening, OCHA may grant an exception to the required time frames for correcting the violation, if OCHA determines that an extension is appropriate [24 CFR 982.404]. OCHA will maintain a record of all extensions granted.

Extensions will be granted in cases where OCHA 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 sixty (60) days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within fifteen (15) calendar days, once the weather conditions have subsided.

Exterior Paint Waiver

OCHA may grant a waiver for exterior paint in accordance with 24 CFR 35.1215 (d). Paint waivers will only be granted for adverse weather conditions that effect outdoor painting only. (Interior paint waivers will not be granted) Exterior paint waivers will be for forty-five (45) days from notification to the owner of the deficiency. Any extensions for exterior paint cannot exceed ninety (90) days total from notification to the owner.

8-II.G. ENFORCING OWNER COMPLIANCE

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

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by OCHA, HUD requires OCHA to 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 of time the rent was abated.

Owner rents are not abated as a result of HQS failures that are the family's responsibility.

OCHA will make all HAP abatements effective the first of the month following the expiration of OCHA specified correction period (including any extension).

OCHA will inspect abated units within five (5) business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

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

HAP Contract Termination

The maximum length of time that HAP may be abated is thirty (30) days. However, if the owner completes corrections and notifies OCHA before the termination date of the HAP contract, OCHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection. OCHA will issue a voucher to permit the family to move to another unit, provided the family is eligible (not in violation of the terms of the assistance, including HQS responsibilities), as described in Chapter 10.

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

Families are responsible for correcting any HQS violations listed in paragraph 8.II.F. The family is required to make any repairs or corrections within a time period consistent with the owner requirement for completing deficiencies, including any extensions. If the repairs or corrections are not made in this time period OCHA will terminate the family's assistance at the end of the abatement period, according to the policies described in Chapter 12.

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

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until OCHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

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

OCHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a OCHA-owned unit, OCHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. An OCHA-owned unit is defined as a unit that is owned by OCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by OCHA). The independent agency must communicate the results of the rent reasonableness determination to the family and OCHA. The independent agency must be approved by HUD, and may be the unit of general local government for OCHA's jurisdiction (unless OCHA is itself the unit of general local government or an agency of such government).

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

Owner-initiated Rent Determinations

OCHA will make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. OCHA will assist the family with the negotiations upon request. At initial occupancy OCHA will determine whether the proposed rent is reasonable before HAP contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

Contract Rent Increases [24.CFR 982.519]

The owner is required to notify the tenant and OCHA, in writing, at least sixty days before any change in the amount of proposed contract rent. Any requested change in rent to owner will be subject to rent reasonableness requirements and available funding.

Requests for rent increases will not be approved:

- If the unit is in an initial lease term.
- If the tenant and OCHA have not received proper notice.
- If the unit is in a failed condition.

For rent increase requests after initial lease-up, OCHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four (4) units.

OCHA will determine whether the requested increase is reasonable within ten (10) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

If approved, any increase will be effective the first of the month following sixty (60) days after OCHA's receipt of the owner's request or on the date specified by the owner, whichever is later. Upon approval of a rental increase, the new contract rent amount will remain effective for a period of 12 months. Owners may request rent increases no more than once every 12 months.

If OCHA determines in the course of processing the rent increase request that the rent increase is not supported by the rent comparable analysis, based on fair market rents, and that the current rent amount is greater than the fair market rents, OCHA may proceed with a contract rent decrease to match the fair market rents. This applies to Project-Based units as well as non-Project-Based units.

Should OCHA determine it does not have sufficient funding to allow rent increases, OCHA may defer considering requests for rent increases immediately. OCHA will inform owners who have submitted rent increases that there is insufficient funding with which to pay rent increases. Once OCHA determines it has sufficient funds with which to consider rent increase requests, owners will need to re-submit a new rent increase request.

OCHA and HUD-Initiated Rent Reasonableness Determinations

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

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

LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

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

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

Units that Must Not be Used as Comparables

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

Note: Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval 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 four (4) units.

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

8-III.D. OCHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

OCHA utilizes www.affordablehousing.com to maintain and process rent reasonableness determinations to meet HUD requirements.

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. OCHA will utilize www.affordablehousing.com. Units proposed for HCV assistance will be compared to the units within the market area. Because units may be similar, but not exactly like the unit proposed for HCV assistance, OCHA may make adjustments to the range of prices to account for these differences.

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

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

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

OCHA will notify the owner of the rent OCHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. OCHA 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 five (5) business days of OCHA's request for information or the owner's request to submit information.

PART IV: METHAMPHETAMINE DRUG LAB DISCLOSURE POLICY

8-IV.A. OVERVIEW

The purpose of this policy is to ensure that landlords/owners disclose, if known or has reason to know that the dwelling unit or any part of the premises was used in, or was used to aid in, the manufacture of methamphetamine at any point in the past, to the Oklahoma City Housing Authority (OCHA). Dwelling units where a methamphetamine drug lab has been operated increases the risk of exposure to chemicals used in the manufacturing or the waste from manufacturing methamphetamine which can lead to serious health concerns, up to and including death. OCHA's mission is to make safe, decent and sanitary housing available to low-income families.

8-IV.B. POLICY

Prior to the commencement of the Housing Assistance Payments (HAP) contract and the Lease Agreement the landlord/owner/agent must complete the "Disclosure of Information on Methamphetamine Drug Lab Hazards" OCHA Form.

If the dwelling unit is identified, by admission or discovery, as having been used to manufacture methamphetamine the landlord/owner must:

- Have the level of contamination assessed. If, upon completion of the assessment, it is determined that the level of contamination within the property:
    - Does not exceed the standard established by the Oklahoma Department of Environmental Quality. The landlord will provide an official document with the results to OCHA.
    - Does exceed the standard established by the Oklahoma Department of Environmental Quality. The landlord/owner shall retain the services of a clandestine drug laboratory remediation contractor to remediate the contaminated property. Once the remediation is complete the landlord/owner will provide documentation verifying the remediation was completed and the level of contamination does not exceed the standard established by the Oklahoma Department of Environmental Quality.

The presence of methamphetamine in excess of one-tenth of one microgram (0.1 mcg) per one hundred square centimeters (100 cm^2) of surface materials within the dwelling unit shall constitute contamination requiring remediation.

If the landlord/owner fails to comply with the "Methamphetamine Drug Lab Disclosure Policy" OCHA will not execute a HAP contract.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the Housing Assistance Payments (HAP) contract.

In order for OCHA to assist a family in a particular dwelling unit, or execute a HAP contract with the owner of a dwelling unit, OCHA will determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)];
- The unit must be inspected by OCHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)];
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)];
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)];
- The owner must be an eligible owner, approvable by OCHA, with no conflicts of interest [24 CFR 982.306];
- For families initially leasing a unit only, where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)].

9-I.A. TENANT SCREENING

OCHA 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. Screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. OCHA will also inform the owner or manager of their rights and obligations under the Violence Against Woman Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)].

OCHA will provide the owner with the family's current and prior address (as shown in OCHA records); and the name and address (if known to OCHA) of the landlord at the family's current and prior address [24 CFR 982.307 (b)(1)].

OCHA will not provide additional screening information to the owner.

OCHA's policy on providing information to the owner will be included in the family's briefing packet [24 CFR 982.307(b)(3)].

OCHA will not disclose to the owner any confidential information provided in response to an OCHA 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)].

9-I.B. REQUESTING TENANCY APPROVAL

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the HCV 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 OCHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two (2) documents to OCHA:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517; and
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A.

The RFTA 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 OCHA 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 OCHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher.

The RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies, in person, by mail, or by fax.

The family may not submit, and OCHA will not process, more than one (1) RFTA at a time.

When the family submits the RFTA OCHA will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, OCHA will notify the family and the owner of the deficiencies.

Because of the time sensitive nature of the tenancy approval process, OCHA will attempt to communicate with the owner and family by phone, fax, or email. OCHA will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

OCHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where OCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the HCV program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in OCHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

OCHA will 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.

OCHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by OCHA may also be leased in the HCV program. In order for a OCHA-owned unit to be leased under the HCV program, the unit must not be ineligible housing and OCHA will inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select an OCHA-owned unit without any pressure or steering by OCHA.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, OCHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that OCHA has chosen to allow.

The regulations do require OCHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- 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.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family will 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 will 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. The family may select a different sized dwelling unit than that listed on the voucher; however, this will not increase the amount of rental assistance the family receives (i.e. the family will not receive additional rental assistance). The Payment Standard (amount of assistance) is based on the authorized voucher or actual bedroom size, whichever is less. The utility allowance is based on the size of unit actually selected or the authorized voucher size, whichever is less. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed forty (40%) percent of the family's monthly adjusted income. 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.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; OCHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under state and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)].

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by OCHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

OCHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner; and
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one (1) 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 [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease.

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. OCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus OCHA'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)].

OCHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are <u>not</u> customarily provided to unassisted families as part of the dwelling lease with those families, are <u>not</u> permanently installed in the dwelling unit and where the family has the sole option of <u>not</u> utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

OCHA Review of Lease

OCHA will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, OCHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in person, by mail, or by fax. OCHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time sensitive, OCHA will attempt to communicate with the owner and family by phone, fax, or email. OCHA will use mail when the parties can't be reached by phone, fax, or email.

OCHA is permitted, but is not required, to review the lease to determine if the lease complies with state and local law and is permitted to decline to approve the tenancy if OCHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)].

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

Prior to approving the assisted tenancy and execution of a HAP contract, OCHA will ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by OCHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed forty (40%) percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by OCHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

OCHA will complete its determination within ten (10) business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with OCHA, OCHA will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

If OCHA 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. OCHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), OCHA 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.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between OCHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, OCHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

OCHA will make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract <u>will</u> be executed no later than sixty (60) calendar days from the beginning of the lease term.

OCHA 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 sixty (60) calendar days from the beginning of the lease term, OCHA 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 sixty (60) days). Any HAP contract executed after the sixty (60) day period is void, and OCHA may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to OCHA. OCHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and OCHA will execute the HAP contract. OCHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give OCHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

An execution of a new HAP contract is not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless OCHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease; and/or
- 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 (RFTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify OCHA of any changes in the amount of the rent to owner at least sixty (60) days before any such changes go into effect [24 CFR 982.308(g)(4)].

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, OCHA will determine whether the requested increase is reasonable within ten (10) business days of receiving the request from the owner. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the sixty (60) day period after the owner notifies OCHA of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and OCHA policies governing moves within or outside OCHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under OCHA's HCV program, whether the family moves to another unit within OCHA's jurisdiction or to a unit outside OCHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into OCHA's jurisdiction. This part also covers the special responsibilities that OCHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give OCHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- 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 982.314(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 OCHA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit [24CFR 982.314(b)(4), 24 CFR 982.353(b)]. OCHA has adopted an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].
- 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 982.314(b)(2)]. The family must give OCHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- OCHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- OCHA 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. If an acceptable unit is available for the family, OCHA will 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 OCHA gives notice to the owner [24 CFR 982.403(a) and (c)].

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)].

Denial of Moves

HUD regulations permit OCHA to deny a family permission to move under the following conditions:

Insufficient Funding

OCHA may deny a family permission to move if OCHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

OCHA will deny a family permission to move on grounds that OCHA does not have sufficient funding for continued assistance if:

- the move is initiated by the family, not the owner or OCHA;
- OCHA can demonstrate that the move will, in fact, result in higher subsidy costs resulting in the termination of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves for housing assistance payments);
- OCHA 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
- for portability moves, the receiving PHA is not absorbing the voucher;
- If OCHA 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 OCHA's jurisdiction. OCHA, 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 OCHA's jurisdiction and outside under portability, OCHA will not deny a move due to insufficient funding if OCHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. OCHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

OCHA will create a list of families whose moves have been denied due to insufficient funding. OCHA 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. OCHA 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.

OCHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

OCHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA allows exceptions to these grounds for denial or termination of assistance for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

If OCHA has grounds for denying or terminating a family's assistance, OCHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively.

Restrictions on Elective Moves [24 CFR 982.314(c)]

OCHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within OCHA's jurisdiction or outside it under portability.

OCHA 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 OCHA's jurisdiction.

OCHA will deny a family permission to make an elective move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.

OCHA 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, and 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, OCHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify OCHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside OCHA's jurisdiction under portability, the notice to OCHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2)]. The notices must be in writing [24 CFR 982.5].

Approval

Upon receipt of a family's notification that it wishes to move, OCHA will determine whether the move is approvable in accordance with the regulations and policies set forth in Sections 10-I.A. and 10-I.B.

Reexamination of Family Income and Composition

For families moving into or families approved to move out of OCHA's jurisdiction under portability, OCHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

For families approved to move to a new unit within OCHA's jurisdiction, OCHA will issue a new voucher. Families will be required to attend a relocation briefing. OCHA 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 OCHA approves. Otherwise, the family will lose its assistance.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, OCHA will 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.

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. OCHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if OCHA determines no subsidy would be paid at the new unit, OCHA may refuse to enter into a HAP contract on behalf of the family.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a Public Housing Authority (PHA) administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA.** The second is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher.

Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. OCHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C. when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

OCHA must comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. OCHA AS THE INITIAL PHA (ROLE)

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one (1) PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, OCHA will provide the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform OCHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, OCHA will select the receiving PHA on behalf of the family (24 CFR 982.255(b).

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside OCHA's jurisdiction under portability. OCHA, in accordance with HUD regulations and OCHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside OCHA's jurisdiction under portability. However, HUD gives OCHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If OCHA intends to deny a family permission to move under portability due to insufficient funding, OCHA will notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

In addition, OCHA has established a policy denying the right to portability to nonresident applicants during the first twelve (12) months after they are admitted to the program [24 CFR 982.353(c)].

If neither the head of household nor the spouse/cohead of an applicant family did not have a domicile (legal residence) in OCHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in OCHA's jurisdiction with voucher assistance for at least twelve (12) months before requesting portability.

If the applicant family did list a domicile (legal residence) in OCHA's jurisdiction at the time the family's application for assistance was submitted, the family must have lived at that address or in OCHA's jurisdiction for at least twelve (12) months.

OCHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault or stalking.

Participant Families

OCHA will not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

OCHA will determine whether a participant family may move out of OCHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A. and 10-I.B. of this chapter. OCHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C. of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d) (1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

OCHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353 (d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, OCHA will inform the family that it may not move there and receive voucher assistance.

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

For a participant family approved to move out of its jurisdiction under portability, OCHA will conduct a reexamination of family income and composition if the family's last reexamination is one hundred twenty (120) days or older.

OCHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require OCHA to provide information on portability to all *applicant* families that qualify to lease a unit outside OCHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

No formal briefing will be required for a *participant* family wishing to move outside OCHA's jurisdiction under portability. However, OCHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

OCHA will provide the name, address, and phone of the contact for the PHA's in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, OCHA will advise the family that the family selects the receiving PHA and notify OCHA of which receiving PHA was selected. OCHA will provide the family with contact information for all of the receiving PHA's that serve the area. OCHA will not provide any additional information about receiving PHA's in the area. OCHA will further inform the family that if the family prefers not to select the receiving PHA, OCHA will select the receiving PHA on behalf of the family. In this case, OCHA will not provide the family with information for all receiving PHA's in the area.

OCHA will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, payment standards and voucher extension policies.

Voucher Issuance and Term

An *applicant* family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, OCHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

For *participant* families approved to move under portability, OCHA will issue a new voucher within ten (10) business days of OCHA's written approval to move.

The initial term of the voucher will be sixty (60) days.

Voucher Extensions and Expiration

OCHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of OCHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to OCHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term. If OCHA extends the term of the voucher, the receiving PHA's voucher will expire thirty (30) calendar days from the new expiration date of OCHA's voucher.

To receive or continue receiving assistance under OCHA's HCV program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within ninety (90) days following the expiration date of OCHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, OCHA will contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, OCHA will determine whether it will approve or deny the move.

Initial Contact with the Receiving PHA

Because the portability process is time sensitive, OCHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. OCHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. OCHA will pass this information along to the family. OCHA will also ask for the name, address, telephone number, fax and e-mail of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

OCHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out;
- A copy of the family's voucher;
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7)];
- 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)]; and
- Any other documents required.

Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is ninety (90) days following the expiration date of the voucher issued to the family by OCHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify OCHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, OCHA must extend the billing deadline by 30 days.

OCHA's decision as to whether to accept late billing will be based on internal OCHA factors, including OCHA's leasing or funding status. If OCHA has not received an initial billing notice by the deadline and intends not to honor a late billing, OCHA will-notify the receiving PHA in writing. If OCHA informs the receiving PHA that it will not honor a late billing, OCHA is not required to honor any billing notice received after the billing deadline. If OCHA subsequently receives a late billing notice on behalf of the family, it simply returns the late billing notice and the receiving PHA must absorb the family. OCHA will send the receiving PHA a written confirmation of its decision by mail.

OCHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e)]

If the receiving PHA is administering the family's voucher, OCHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, OCHA must promptly reimburse the receiving PHA for the lesser of 80 percent of OCHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which OCHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which OCHA may bill [24 CFR 982.355(e)(2)].

OCHA is responsible for making billing payments in a timely manner. The first billing amount is due within thirty (30) calendar days after OCHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth (5^{th}) business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

OCHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. OCHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

OCHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies OCHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If OCHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If OCHA fails to receive an updated 50058 by the family's annual reexamination date, OCHA will contact the receiving PHA to verify the status of the family. OCHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. OCHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

At any time, either OCHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For OCHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. OCHA AS THE RECEIVING PHA (ROLE)

If a family has a right to lease a unit in OCHA's jurisdiction under portability, OCHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that OCHA is not required to accept incoming portable families, such as OCHA being in a declared disaster area. However, OCHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with OCHA's policies. This requirement also applies to policies of Moving to Work agencies. OCHA procedures and preferences for selection among eligible applicants do not apply to the family, and OCHA's waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of OCHA [24 CFR 982.355(c)(12)], and OCHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

OCHA will respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If OCHA informs the initial PHA that it will be absorbing the voucher, OCHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4).

Initial Contact with Family

When a family moves into OCHA's jurisdiction under portability, the family is responsible for promptly contacting OCHA and complying with OCHA's procedures for incoming portable families The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, OCHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason OCHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

OCHA will require the family to attend a briefing as described in Chapter 5.

Income Eligibility and Reexamination

For any family moving into its jurisdiction under portability, OCHA will conduct a new reexamination of family income and composition. However, OCHA will not delay issuing the family a voucher for this reason. Nor will OCHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and OCHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, OCHA will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last one hundred twenty (120) days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third-party verification is received.

Voucher Issuance

When a family moves into OCHA's jurisdiction under portability, OCHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to OCHA during the term of OCHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

OCHA will issue the voucher within two (2) weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted OCHA, and the family complies with OCHA's procedures.

When a family ports into OCHA's jurisdiction, OCHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with OCHA's procedures. OCHA will update the family's information when verification has been completed.

Voucher Term

The term of OCHA's voucher will not expire before thirty (30) calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, OCHA's voucher may not expire before thirty (30) days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

Voucher Extensions [24 CFR 982.355(c)(14)]

OCHA generally will not extend the term of the voucher that it issues to an incoming portable family unless OCHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

OCHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

OCHA will notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of OCHA's voucher [24 CFR 982.355(c)(16)]. OCHA will use Part II of form HUD-52665, Family Portability Information, for this purpose. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of OCHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, OCHA will refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by OCHA's voucher is only valid for the family's search in OCHA's jurisdiction.

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, OCHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in OCHA's program is determined in the same manner as for other families in OCHA's program.

OCHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of OCHA's ongoing administrative fee for each program unit under contract on the first day of the month for which OCHA is billing the initial PHA under portability.

If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which OCHA may bill (i.e., OCHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the OCHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

Initial Billing Deadline

If a portable family's search for a unit is successful and OCHA intends to administer the family's voucher, OCHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than ninety (90) days following the expiration date of the family's voucher issued by the initial PHA. This deadline may be extended for thirty (30) additional days if the delay is due to suspension of the voucher's term. A copy of the family's form HUD-50058, Family Report, completed by OCHA must be attached to the initial billing notice. OCHA will send these documents by mail, fax, or e-mail.

If OCHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission.

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination

OCHA will send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time OCHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

Change in Billing Amount

OCHA 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 payment standard, etc.);
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family;
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than ten (10) business days following the effective date of the change in the billing amount. If OCHA fails to send Form HUD-52665 within ten (10) days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments

If the initial PHA fails to make a monthly payment for a portable family by the fifth (5^{th}) business day of the month, OCHA will promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). OCHA will send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over OCHA. If the initial PHA fails to correct the problem by the second (2^{nd}) month following the notification, OCHA may request by memorandum to the director of the OPH with jurisdiction over OCHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. OCHA will send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to OCHA.

Overpayments

In all cases where OCHA has received billing payments for billing arrangements no longer in effect, OCHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three (3) months because OCHA failed to notify the initial PHA that the billing arrangement was terminated, OCHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.

- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over OCHA of the date and the amount of reimbursement to the initial PHA.

Denial or Termination of Assistance

At any time, OCHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

If OCHA elects to deny or terminate assistance for a portable family, OCHA will notify the initial PHA within ten (10) business days after the informal review or hearing if the denial or termination is upheld. OCHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. OCHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

OCHA may absorb an incoming portable family into its own program when OCHA executes a HAP contract on behalf of the family or at any time thereafter providing that OCHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1)].

If OCHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, OCHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If OCHA decides to absorb a family after that, it will provide the initial PHA with thirty (30) days advance notice, but no later than ten (10) business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for OCHA's HCV program [24 CFR 982.355(d)], and OCHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

Move Under Portability to a Third Jurisdiction

In the case where a family currently under a billing arrangement subsequently decides it wants to move under portability to yet another jurisdiction, the receiving PHA does not issue the family a voucher in order to do so. Instead, the receiving PHA notifies the initial PHA of the family request to port to another jurisdiction. The initial PHA is responsible for issuing the family's voucher and sending the Form HUD-52665 and supporting documentation to the new receiving PHA.

Chapter 11

REEXAMINATIONS

INTRODUCTION

OCHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and OCHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

OCHA will 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. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b); New HCV GB, Reexaminations]

HUD permits OCHA to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years OCHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. OCHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, OCHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, OCHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, OCHA may streamline the verification of fixed income and must verify non-fixed income annually.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

OCHA will begin the annual reexamination process one hundred twenty (120) days in advance of its scheduled effective date.

OCHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

Families must complete the annual reexamination process on-line through the OCHA portal (portal.ochanet.org). If participation in the on-line process poses a hardship because of a family member's disability, lack of equipment, or no access to on-line media the family should contact OCHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination will be sent by e-mail and first-class mail. The notice will contain the date the reexamination must be completed. In addition, it will inform the family of the information and documentation that must be brought to OCHA or uploaded through the portal.

If the family is unable to complete the reexamination through the portal, the family should contact OCHA in advance of the required completion date. If a family does not complete the reexamination, OCHA will send a second notification with a new completion date.

If a family fails to complete the reexamination timely without OCHA 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.

An advocate, interpreter, or other assistant may assist the family in completing the on-line process.

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to OCHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Families will be asked to supply all required information (as described in the reexamination notice) to OCHA or upload to the on-line portal. The required information will include an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation 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 reexamination must be provided within ten (10) business days of the completion date of the reexamination. 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 frame (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

The information provided by the family must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be verified on an annual basis. These include:

- Legal identity;
- Age;
- Social security numbers;
- A person's disability status; and/or
- Citizenship or immigration status.

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), OCHA will issue the family a new voucher, and the family and OCHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, OCHA will terminate the HAP contract in accordance with its terms [24 CFR 982.403].

At the annual reexamination, OCHA will conduct a criminal background and a lifetime sex offender registration check for all family members.

If OCHA proposes to terminate assistance based on an arrest or lifetime sex offender registration information, OCHA will 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.

11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

During the annual reexamination process, OCHA 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 their parents or is considered a vulnerable youth based on the policies in Sections 3-II.E. and 7-II.E., the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on their own income and the income of their parents (if applicable), OCHA will process a reexamination in accordance with the policies in this chapter.

11-I.F. EFFECTIVE DATES

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 thirty (30) days in advance.

- If less than thirty (30) days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the thirty (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 thirty (30) day notice is required.
- If OCHA 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 OCHA, but will always allow for the thirty (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 Chapter 16.

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 OCHA 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 OCHA.
- If the family causes a delay in processing the annual reexamination, d*ecreases* 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 considered to be caused by the family if the family fails to provide information requested by OCHA by the date specified, and this delay prevents OCHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and OCHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances OCHA will process interim reexaminations to reflect those changes. HUD regulations also permit OCHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. OCHA will complete the interim reexamination within a reasonable time after the family's submission.

At the interim reexamination, OCHA will conduct a criminal background and a lifetime sex offender registration check for all family members.

If OCHA proposes to terminate assistance based on an arrest or lifetime sex offender registration information, OCHA will 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.

This part includes HUD and OCHA policies describing what changes families are required to report, what changes families may choose to report, and how OCHA will process both OCHA and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

OCHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members <u>Not</u> Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require OCHA approval. However, the family is required to promptly notify OCHA of the addition [24 CFR 982.551(h)(2)].

The family must inform OCHA of the birth, adoption, or court-awarded custody of a child within thirty (30) days.

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 OCHA 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)].

Although OCHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement OCHA conduct a reexamination of income whenever a new family member is added. OCHA may state in policy that an income reexamination will be conducted.

When any new family member is added, OCHA will make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].

OCHA will only consider one (1) request to add a family member to the household composition on an annual basis and may not consider a request to approve the return of a household member that was removed from the household composition within the last twelve (12) months. Exceptions may be granted as a reasonable accommodation.

OCHA may deny request for increased voucher size to move to larger unit for additional members added to household unless the increased number of persons in the unit violates the HQS space standards.

Families must request OCHA approval to add a new family member, live-in aide, foster child, or foster adult. Requests must be made in writing and through the portal and approved by OCHA prior to the individual moving into the unit.

OCHA will not approve the addition of a new family or household member unless the individual meets OCHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

OCHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If OCHA determines an individual meets OCHA's eligibility criteria and documentation requirements, OCHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If OCHA determines that an individual does not meet OCHA's eligibility criteria or documentation requirements, OCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

Departure of a Family or Household Member

Families must promptly notify OCHA through the portal 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], OCHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a household member ceases to reside in the unit, the family must complete "Report a Change" in the OCHA portal within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be completed either because OCHA has reason to believe that changes in income or expenses may have occurred, or because the family completes "Reports a Change" though the OCHA portal. When a family reports a change, OCHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

OCHA-Initiated Interim Reexaminations

OCHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by OCHA. They are not scheduled because of changes reported by the family. OCHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), OCHA will conduct an interim reexamination at the start and conclusion of the of the 24-month eligibility period.
- OCHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.
- OCHA may conduct an interim reexamination every three (3) months as long as the family reports $0 - $3,000 annual income.

Family-Initiated Interim Reexaminations

Required Reporting

Families are required to report all increases in income of two hundred fifty ($250) dollars per month or more, including new employment, within thirty (30) days of the date the change takes effect.

OCHA will only conduct interim reexaminations for families that qualify for the EID, and only when the EID family's share of rent will change as a result of the increase. In all other cases, OCHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

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)].

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, OCHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

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]. For more information regarding the requirement to impute welfare income see Chapter 6.

Families may report changes in income or expenses at any time through the portal.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must make changes through the portal. The family may request assistance from OCHA staff to submit the changes in the portal.

Based on the type of change reported, OCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten (10) business days of receiving a request from OCHA. This time frame may be extended for good cause with OCHA approval. OCHA will accept required documentation by mail, e-mail, by fax, uploaded to the portal or in person.

Effective Dates

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.

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following thirty (30) days' notice to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the first day of the first month following that in which the change occurred. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to decrease:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, OCHA will recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2)]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order 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 OCHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

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.

When OCHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If OCHA'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 *increased,* 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, OCHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's second annual reexamination, OCHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for OCHA's policy on decreases in the 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 OCHA's subsidy standards (see Chapter 5), 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 OCHA's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, OCHA will use the utility allowances in effect at the time the new lease and HAP contract are executed.

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

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

OCHA will 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:

- The amount and effective date of the new HAP payment;
- The amount and effective date of the new family share of the rent; and
- The amount and effective date of the new tenant rent to owner.

The family will be given an opportunity for an informal hearing regarding OCHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

11-III.D. DISCREPANCIES

During an annual or interim reexamination, OCHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, OCHA may discover errors made by OCHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which OCHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by OCHA based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that OCHA may consider in lieu of termination, the criteria OCHA will use when deciding what action to take and the steps OCHA will take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires OCHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits OCHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying OCHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of OCHA's subsidy goes down. If the amount of HCV assistance provided by OCHA drops to zero and remains at zero for one hundred eighty (180) consecutive calendar days the family's assistance terminates automatically.

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 OCHA of the changed circumstances and request an interim reexamination before the expiration of the one hundred eighty (180) day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that OCHA terminate the family's assistance at any time.

The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family's assistance, OCHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires OCHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

OCHA will terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, 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 or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, OCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C. and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

OCHA will terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)]

OCHA will terminate assistance if:

- A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- 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
- A family member, as determined by OCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c)]

OCHA will 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.

OCHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of ninety (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 a SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

OCHA 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 OCHA 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, OCHA must immediately terminate assistance for the household member.

In this situation, OCHA 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, OCHA must terminate assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5)]

If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have dependent children, is not residing with their parents in a HCV-assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, OCHA will 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 will be issued a voucher to move with continued assistance in accordance with program regulations and OCHA 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)]

OCHA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

Use of Illegal Drugs and Alcohol Abuse

OCHA 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.

OCHA 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 six (6) months.

OCHA 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 of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, OCHA will consider alternatives as described in Section 12-II.C. and other factors described in Sections 12-II.D. and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

OCHA 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.

OCHA 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 of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, OCHA will consider alternatives as described in Section 12-II.C. and other factors described in Sections 12-II.D. and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Sex Offender Registration Mandatory Prohibition [24 CFR 982.553(a)(2)(i)]

OCHA must terminate a family's assistance if any household member becomes subject to a lifetime registration requirement under a state sex offender registration program.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. OCHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

If the family is absent from the unit for more than thirty (30) consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

Insufficient Funding [24 CFR 982.454]

OCHA may terminate HAP contracts, in accordance with HUD requirements, if OCHA determines that funding under the Annual Contributions Contract is insufficient to support continued assistance for families in the program. Before terminating HAP contracts on the basis of insufficient funding, OCHA will ensure that it has carefully considered all cost-savings measures and the impact such terminations will likely have on program participants.

OCHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16.

Should OCHA determine it does not have sufficient funding to support continued assistance for families in the program, families will be terminated in the following order:

- Recall of vouchers from families that are searching for units;
- Port out families; and
- Families that have most recently been admitted into the HCV program.

Project-Based HCV tenants are not subject to termination resulting from insufficient funding, only tenant-based HCV tenants.

HUD Veterans Affairs Supportive Housing (VASH) families, Family Unification Program (FUP) families, Single Room Occupancy (SRO), 5-year Mainstream families, Non-Elderly Disabled (NED) families, Elderly and Disabled families are not subject to termination resulting from insufficient funding and/or to the extent that these programs have separate funding sources that are sufficient.

OCHA will issue such families and owners written 30-day notice of termination. Families that are within their first year of their HAP contract are not excluded from termination and such families and owners may receive 30-day notices.

Families that are terminated from the program due to insufficient funding will receive priority to reenter the program before new applicants are selected from the HCV wait list and before Project-Based families may move with tenant-based assistance. Families terminated as a result of insufficient funding will be added to the HCV wait list. Families terminated as a result of insufficient funding may be added to the HCV wait list at any time, even if the wait list is closed. When funding is available, these families will be selected from the wait list first. Terminated families must comply with Section 4-II.E. Reporting Changes in Family Circumstances.

OCHA will terminate the minimum number needed in order to reduce HAP costs to a level within OCHA's annual budget authority.

Other Authorized Reasons for Termination of Assistance

[24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]

HUD permits OCHA to terminate assistance under a number of other circumstances. It is left to the discretion of OCHA whether such circumstances in general warrant consideration for the termination of assistance The Violence Against Women Act of 2013 explicitly prohibits OCHA from considering incidents of, or criminal activity directly related to domestic violence, dating violence, sexual assault or stalking as reasons for terminating the assistance of a victim of such violence.

Additionally, per 24 CFR 984.101(d), OCHA is no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

OCHA **will** terminate a family's assistance for any of the following:

- The family has failed to comply with any family obligations under the program.
- The family must supply any information that OCHA or HUD determines to be necessary, including evidence of citizenship or eligible immigration status, and information for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family must allow OCHA to inspect the unit at reasonable times and after reasonable notice.
- The family must not commit any serious or repeated violation of the lease. The family must notify OCHA and the owner before moving out of the unit or terminating the lease.
- The family must promptly give OCHA a copy of any owner eviction notice.
- The assisted unit must be the family's only residence.

- The composition of the assisted family residing in the unit must be approved by OCHA. The family must promptly notify OCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request OCHA approval to add any other family member as an occupant of the unit.
- The family must promptly notify OCHA in writing if any family member no longer lives in the unit.
- The family must not sublease the unit, assign the lease, or transfer the unit.
- The family must promptly notify OCHA and the owner in writing before moving out of the unit or terminating the lease.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.
- The family must not own or have any interest in the unit (other than in a cooperative).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless OCHA 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.
- Any family member has been evicted from federally-assisted housing in the last five (5) years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- 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.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family has breached the terms of a repayment agreement entered into with OCHA, to pay amounts owed to OCHA, or amounts paid to an owner by OCHA.
- If a Welfare-to-Work (WTW) family fails to fulfill its obligations under the WTW voucher program.
- A family member has engaged in or threatened violent or abusive behavior toward OCHA personnel.
    - *Abusive or violent behavior towards OCHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, OCHA will consider alternatives as described in Section 12-II.C. and other factors described in Sections 12-II.D. and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

OCHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give OCHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions OCHA may choose to take when it has discretion, and outlines the criteria OCHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which OCHA terminates assistance depends upon individual circumstances. HUD permits OCHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, OCHA 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)].

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 OCHA request.

Repayment of Family Debts

If a family owes amounts to OCHA, as a condition of continued assistance, OCHA will require the family to repay the full amount or to enter into a repayment agreement, within ten (10) days of receiving notice from OCHA of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits OCHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

OCHA 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 OCHA'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 OCHA 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 OCHA's use of records to terminate assistance for participants. While OCHA 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, OCHA 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 OCHA from using non-federal sources to conduct criminal background checks of program participants.

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

OCHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

OCHA 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;
- 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 of arrest(s) will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, OCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. OCHA 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 or not 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;
- OCHA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully;
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If the family includes a person with disabilities, OCHA'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, OCHA will determine whether the behavior is related to the disability. If so, upon the family's request, OCHA will determine whether alternative measures are appropriate as a reasonable accommodation. OCHA 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.

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section addresses the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, and stalking.

VAWA Protections against Termination

VAWA provides four (4) 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. So do the limitations discussed under the next heading.)

First, VAWA provides that OCHA 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 OCHA, 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 they were 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, sexual assault or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives OCHA 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 OCHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as OCHA 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 OCHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if OCHA 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)].

In order to demonstrate an actual and imminent threat, OCHA 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 OCHA 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)].

If the tenant wishes to contest OCHA's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of an informal hearing.

Victim Documentation

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault or stalking, OCHA will request in writing that the individual submit documentation affirming that claim.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking. In lieu of the certification form, OCHA will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse; and
- 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; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

OCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within fourteen (14) business days after receipt of the OCHA's request or must request an extension within that time frame. OCHA may, at its discretion, extend the deadline for ten (10) business days.

If the individual provides the requested documentation within fourteen (14) business days, or any OCHA-approved extension, OCHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within fourteen (14) business days, or any OCHA-approved extension, OCHA will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.

Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2009(a)]

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives OCHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if OCHA 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.

If the perpetrator remains in the unit, OCHA continues to pay the owner until OCHA terminates the perpetrator from the program. OCHA must not stop paying HAP until thirty (30) days after the owner bifurcates the lease to evict the perpetrator. OCHA may pay HAP for the full month if the thirty (30) day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, OCHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, OCHA will provide them with thirty (30) days to establish eligibility for another housing program prior to termination of the HAP contract.

This means that OCHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family.

OCHA will terminate assistance to a family member if OCHA 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, non-culpable family members.

In making its decision, OCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to OCHA by the victim in accordance with this section. OCHA will also consider the factors in section 12-II.D. Upon such consideration, OCHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If OCHA 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.

OCHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

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

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, OCHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

12-II.F. TERMINATION NOTICE

If a family's assistance is to be terminated, whether voluntarily or involuntarily, OCHA will give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated;
- The effective date of the termination. This date generally will be at least thirty (30) calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other OCHA policies, or the circumstances surrounding the termination require; and
- The family's right to an informal hearing as described in Chapter 16.

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)].

OCHA will include in its termination notice the VAWA information described in section 16-IX.B of this plan and a form HUD-5382 and form HUD-5380. OCHA will request that a family member wishing to claim protection under VAWA notify OCHA within fourteen (14) business days.

When a family requests to be terminated from the program they must do so in writing to OCHA (see section 12-I.C.). OCHA will then send a notice to the family and the owner no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

OCHA will terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) OCHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with OCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically.

The owner may offer the family a separate unassisted lease.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; OCHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence Against Women Act of 2013.

This includes failure to pay rent or other amounts due under the lease. However, OCHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

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 (see section 12-II.E.).

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

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. See Section 13-II.G for a discussion of OCHA policies relating to units in foreclosure.

12-III.C. EVICTION [24 CFR 982.310(e) and (f)]

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 OCHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give OCHA a copy of any eviction notice (see Chapter 5).

If the eviction action is finalized in court, the owner must provide OCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than five (5) business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h) and (h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and/or
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, 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.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if OCHA has no other grounds for termination of assistance, OCHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that OCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by OCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow OCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

  OCHA 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 or not 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)].
- The family must notify OCHA and the owner 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 OCHA at the same time the owner is notified.
- The family must promptly give OCHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by OCHA. The family must promptly notify OCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request OCHA approval to add any other family member as an occupant of the unit.

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. OCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
- The family must promptly notify OCHA in writing if any family member no longer lives in the unit.
- If OCHA has given approval, a foster child or a live-in aide may reside in the unit. OCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when OCHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 and Chapter 11
- The family must not sublease the unit, assign the lease, or transfer the unit.

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by OCHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify OCHA when the family is absent from the unit.

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to OCHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].

- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and OCHA policies related to drug-related and violent criminal activity.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and OCHA policies related to alcohol abuse.

- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless OCHA 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.

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in OCHA's HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between OCHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including OCHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION

Recruitment

OCHA is responsible for ensuring that very low income families have access to all types and ranges of affordable housing in OCHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for OCHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in OCHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, OCHA will identify and recruit new owners to participate in the program.

If OCHA will be conducting outreach events, OCHA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. OCHA must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

OCHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. OCHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Maintaining personal contacts with the Oklahoma City Board of Realtors, the Oklahoma City Apartment Association and other similar organizations.
- OCHA prepares informational packets directed to owner participation by listing advantages of the programs to prospective landlords.
- Periodic speaking engagements to civic and community groups.
- Quadrant distribution of information to assure contacts with both large apartment management entities as well as single property owners in areas outside of low-income and minority concentration.
- Maintaining a housing list of property owners who wish to participate in the Section 8 HCV programs and distributing these lists to all families at the time of voucher issuance.

Retention

All OCHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

OCHA provides owners with a handbook that explains the program, including HUD and OCHA policies and procedures, in easy-to-understand language.

OCHA will give special attention to helping new owners succeed through activities such as:

- Coordinating inspection and leasing activities between OCHA, the owner and the family.
- Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires OCHA to aid families in their housing search by providing the family with a list of landlords or other parties known to OCHA who may be willing to lease a unit to the family, or to help the family find a unit. Although OCHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to OCHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify OCHA. OCHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. OCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See Chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to OCHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See Chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. OCHA will inspect the owner's dwelling unit at various stages of HCV program participation to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

OCHA will determine that the rent of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, OCHA will determine that the share of rent to be paid by the family does not exceed forty (40%) percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See Chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See Chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

OCHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See Chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter.

13-I.C. 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 OCHA information required under the HAP contract;
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from OCHA), and any charges for unit damage by the family;
- Enforcing tenant obligations under the dwelling lease;
- Paying for utilities and services (unless paid by the family under the lease);
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]; and
- Comply with VAWA when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

OCHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where OCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

OCHA will not approve the assisted tenancy if OCHA 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 OCHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d)]

OCHA will not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. OCHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19; Form HUD-52641, Section 13]

OCHA will not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one (1) year thereafter:

- Any present or former member or officer of OCHA (except a participant commissioner);
- Any employee of OCHA, or any contractor, subcontractor or agent of OCHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; and
- Any member of the Congress of the United States.

Such "covered individual" may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

> *Immediate family member* means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. OCHA will submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by OCHA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, OCHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by OCHA or assistance under the HCV program for an eligible OCHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of OCHA, description of the nature of the investment, including disclosure/divestiture plans.

Where OCHA has requested a conflict of interest waiver, OCHA may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, OCHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit OCHA, at OCHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If OCHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

OCHA will refuse to approve a request for tenancy if OCHA becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
    - Threatens the right to peaceful enjoyment of the premises by other residents;
    - Threatens the health or safety of other residents, of employees of OCHA, or of owner employees or other persons engaged in management of the housing;
    - 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
    - Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, OCHA 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, OCHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

OCHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13-I.E. NON-DISCRIMINATION

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 OCHA.

The owner must cooperate with OCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with OCHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between OCHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as OCHA's obligations. Under the HAP contract, OCHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in OCHA's HCV program.
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If OCHA has given approval for the family of the assisted tenancy, the owner and OCHA execute the HAP contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three (3) parts:

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of OCHA and owner. In general, the HAP contract cannot be modified.

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;
- OCHA Payment to Owner;
- Prohibition of Discrimination;
- Owner's Breach of HAP Contract;
- OCHA 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 OCHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, OCHA ~~will~~ must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. OCHA will 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 OCHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus OCHA's HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is <u>not</u> responsible for payment of the HAP payment, and OCHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from OCHA, the excess amount must be returned immediately. If OCHA determines that the owner is not entitled to all or a portion of the HAP, OCHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

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 accepting the monthly payment from OCHA, the owner certifies 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)]

OCHA 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 (2) calendar months of the HAP contract term, the HAP contract provides for penalties if OCHA 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.

OCHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond OCHA's control. In addition, late payment penalties are not required if OCHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

Termination of HAP Payments [24 CFR 982.311(b)]

OCHA will 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.

The owner must inform OCHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform OCHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide OCHA 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, OCHA 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 OCHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. 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; and/or
- If the owner has committed any violent criminal activity.

If OCHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

OCHA's rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. OCHA may also obtain additional relief by judicial order or action.

OCHA will 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. OCHA will provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

Before OCHA invokes a remedy against an owner, OCHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, OCHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, OCHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. 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:

- The owner or the family terminates the lease;
- The lease expires;
- OCHA terminates the HAP contract;
- OCHA 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 OCHA has made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by OCHA;
- The Annual Contributions Contract (ACC) between OCHA and HUD expires;
- OCHA elects to terminate the HAP contract.
    - OCHA 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;
        - The owner breaches the HAP contract [24 CFR 982.453(b)].

If OCHA terminates the HAP contract, OCHA will 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.

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 will be required.

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 except where the old unit and new unit have the same owner.

NO SUBSIDY

A program participant who is not receiving any subsidy may request a voucher to move to a different unit. The HAP contract terminates automatically one hundred eighty (180) calendar days since OCHA has made the last housing assistance payment to the owner. As long as the HAP contract remains in force, the participant has a right to move with continued assistance. OCHA will issue a voucher to move unless it has grounds to deny issuance of the voucher under the regulations.

When the participant locates a new unit and OCHA determines that no subsidy would be paid at the new unit, OCHA will refuse to enter a HAP contract on behalf of the family. Where the family chooses to lease a unit that the family can afford without subsidy, there is no requirement that OCHA enter a HAP contract on behalf of the family. OCHA will notify the family and the owner in writing of the decision not to enter a HAP contract. The family will be terminated effective on the lease in date.

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT

The HAP contract cannot be assigned to a new owner without the prior written consent of OCHA.

An owner under a HAP contract must notify OCHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by OCHA.

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 OCHA finds acceptable. The new owner must provide OCHA 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 in Section 13-I.D. of this chapter.

OCHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within ten (10) business days of receiving the owner's request, OCHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to OCHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, OCHA 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, OCHA will process the leasing in accordance with the policies in Chapter 9.

13-II.G. 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, OCHA 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.

OCHA 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.

OCHA 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.

OCHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

OCHA is committed to ensuring that subsidy funds made available to OCHA are spent in accordance with HUD requirements.

This chapter covers HUD and OCHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents OCHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures OCHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. OCHA is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. OCHA is further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

OCHA anticipates that the vast majority of families, owners, and OCHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that OCHA's HCV program is administered effectively and according to the highest ethical and legal standards, OCHA employs a variety of techniques to ensure that both errors and intentional program abuse are rare.

OCHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

OCHA 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 2010-19. In addition, OCHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

OCHA staff will be required to review and explain the contents of all HUD- and OCHA-required forms prior to requesting family member signatures.

OCHA will provide each OCHA 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.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, OCHA uses 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 OCHA 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]. (See Chapter 16 for additional information about SEMAP requirements.)

In addition to the SEMAP quality control requirements, OCHA will employ a variety of methods to detect errors and program abuse.

- OCHA routinely will use available sources of up-front income verification, including HUD's EIV system, to compare with family-provided information.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- OCHA will compare family-reported income and expenditures to detect possible unreported income.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When OCHA Will Investigate

OCHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for OCHA to investigate, the allegation must contain at least one (1) independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

OCHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

OCHA may investigate possible instances of error or abuse using all available OCHA and public records. If necessary, OCHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

OCHA 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 OCHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to OCHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

In the case of family-caused errors or program abuse, OCHA 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, OCHA 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

OCHA will inform the relevant party in writing of its findings and remedies. The notice will include (1) a description of the error or program abuse, (2) the basis on which OCHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. 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, OCHA will promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented only after the family has received thirty (30) days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse OCHA or OCHA 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 (3) sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

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 OCHA to use incorrect information provided by a third party.

Family Reimbursement to OCHA

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. OCHA will offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, OCHA will terminate the family's assistance in accordance with the policies in Chapter 12.

OCHA Reimbursement to Family

OCHA 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 OCHA [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 in excess of amounts authorized by OCHA for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to OCHA Board of Commissioners, employees, contractors, or other OCHA 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 OCHA 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); and/or
- Admission of program abuse by an adult family member.

OCHA 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, OCHA may at its discretion, impose any of the following remedies:

- OCHA may require the family to repay excess subsidy amounts paid by OCHA, as described earlier in this section;
- OCHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants);
- OCHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively; and/or
- OCHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

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 OCHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to OCHA any excess subsidy received. OCHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, OCHA may allow the owner to pay in installments over a period of time.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to OCHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by OCHA;
- 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 OCHA Board of Commissioners, employees, contractors, or other OCHA representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to OCHA; and/or
- 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 defined in Chapter 2
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Remedies and Penalties

When OCHA determines that the owner has committed program abuse, OCHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16;
- Terminate the HAP contract (See Chapter 13);
- Bar the owner from future participation in any OCHA programs; and/or
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. OCHA-CAUSED ERRORS OR PROGRAM ABUSE

OCHA-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 OCHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by OCHA staff.

OCHA Reimbursement to Family or Owner

OCHA will 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.

14-II.E. CRIMINAL PROSECUTION

When OCHA determines that program abuse by an owner, family, or OCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the federal threshold, the case will 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.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M; New HCV GB, Special Housing Types]

INTRODUCTION

OCHA may permit a family to use any of the special housing types discussed in this chapter. However, OCHA is not required to permit families receiving assistance in its' jurisdiction to use these housing types, except that OCHA will permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. OCHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

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]. A single unit cannot be designated as more than one type of special housing. OCHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, Special Housing Types, p. 3].

This chapter consists of the following eleven (11) parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605; Form HUD-52641; New HCV GB,

Special Housing Types, p. 4]

15-I.A. OVERVIEW

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 (1) person may not occupy a SRO unit. HCV regulations do not limit the number of units in a SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in a SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing."

OCHA offers SRO housing assistance for chronically mentally ill homeless individuals at Palo Duro Apartments located at 409 Northwest 11th Street, Oklahoma City, Oklahoma 73103. The owner in charge of selection for this property is Neighborhood Services Organization. Persons interested in applications for this program should call (405) 236-0413.

15-I.B. FAMILY ELIGIBILITY

The first priority for occupancy of Single Room Occupancy Moderate Rehabilitation units shall be given to homeless individuals. Homeless individuals are persons not currently residing in the building, or persons eligible for Section 8 assistance who are currently residing in the building. Nonresident applicants must be persons who:

- Lack the resources to obtain housing; and
    - Who have 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;
    - Who have a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters; and transitional housing, but excluding prisons and other detention facilities); and
    - Are at imminent risk of homelessness because they face immediate eviction and have been unable to identify a subsequent residence, which would result in emergency shelter placement.
- Persons with a disability who are about to be released from an institution and are at risk of imminent homelessness because no subsequent residences have been identified and because they lack the resources and support networks needed to obtain access to decent housing.

Eligible applicants on the Section 8 waiting list who wish to live in a specific SRO will be issued a Statement of Family Responsibility. OCHA will also accept an application and determine eligibility from any individual referred by a SRO landlord, provided OCHA has offered such SRO to all eligible applicants on the waiting list, and such offers have been refused. A SRO applicant will attend a Briefing Session as described in this section. With the exception for the unit to be occupied by the applicant, all other requirements of the Housing Choice Voucher Program will apply to the SRO program.

15-I.C. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on OCHA'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 a SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.D. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

- *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 (2) 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 (1) 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 (6) persons (or fewer) residing in the SRO facility. If the SRO units are leased only to males, 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~~,~~ to all persons sharing them and may not be located more than one (1) 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*: A SRO unit must contain at least one hundred ten (110) square feet of floor space, and at least four (4) square feet of closet space with an unobstructed height of at least five (5) feet, for use by the occupant. If the closet space is less than four (4) 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.

PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609; Form HUD-52641; New HCV GB,

Special Housing Types, p. 6]

15-II.A. OVERVIEW

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 OCHA, a family member or live-in aide may reside with the elderly person or person with disabilities. OCHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

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 (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing."

15-II.B. 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 for the assisted family. If there is only one (1) room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), OCHA will use the payment standard for a 0-bedroom unit. If the unit has two (2) or more rooms (other than the bathroom and the kitchen), OCHA will use the 1-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.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below:

- Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.
- The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

PART III: GROUP HOME

[24 CFR 982.610 through 982.614; Form HUD-52641; New HCV GB,

Special Housing Types, p. 8]

15-III.A. OVERVIEW

A group home is a state approved (licensed, certified, or otherwise approved in writing by the state) 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 (2) 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 twelve (12) persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by OCHA, a live-in aide may live in the group home with a person with disabilities. OCHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

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 (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home.".

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero- or one-bedroom, depending on OCHA'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 number of persons in the assisted household equals' one assisted person plus any OCHA-approved live-in aide.

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 family unit size to 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, OCHA will consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

The entire unit must comply with HQS requirements described in Chapter 8, except for the requirements stated below:

- *Sanitary Facilities*: A group home must have at least one (1) 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 (4) 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 (1) bedroom of appropriate size for every two (2) people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.
- *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 disturbing noises and reverberations, and other 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 unless a child under the age of six is expected to reside in the unit.

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618; Form HUD-52641; Notice PIH 2021-05;

New HCV GB, Special Housing Types, p. 11]

15-IV.A. OVERVIEW

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. OCHAs offering shared housing as a housing solution may also experience some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. 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.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

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 OCHA, a live-in aide may reside with the family to care for a person with disabilities. OCHA 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 shared housing is offered as a housing option, HUD encourages OCHA to consider ways in which the families may be assisted in finding shared housing, including for-profit shared housing matching (such as roommates or single-family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages OCHA to include information about this housing possibility in the family's voucher briefing.

OCHA should be aware of potential local legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

- Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.
- Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.

OCHA should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. OCHA should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

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 (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing."

15-IV.B. 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.

- Example: A family holds a 2-bedroom voucher. The family decides to occupy 2 out of 3 bedrooms available in the unit.
    - Total bedrooms in the unit: 3 the family will occupy 2 bedrooms ÷ 3 bedrooms in the unit = .667 pro-rata share
    - 2 Bedroom payment standard = $1200.
    - 3 Bedroom payment standard = $1695
    - $1695 x .667 (pro-rata share) = $1131. $1131 is lower than the $1200 payment standard for the 2 BR family unit size. $1131 is the payment standard used to calculate the HAP.

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 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)
    - OCHA 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, OCHA will consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

OCHA 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 described in Chapter 8 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 (1) bedroom for each two (2) 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 (voucher size). A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 CFR 982.619; New HCV GB, Special Housing Types, p. 14]

15-V.A. OVERVIEW

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." The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It 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.

The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing."

15-V.B. 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 gross rent (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.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. OCHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, OCHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.

No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by OCHA and OCHA verifies correction (see Chapter 8).

In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17; New HCV GB,

Special Housing Types, p. 15]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one (1) or more parts, which is built on a permanent chassis, and designed for use as a principal place of residence.

A family can choose to rent a manufactured home already installed on a space and OCHA will permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.B. below.

OCHA does not provide HCV assistance for rental space for those families that own a manufactured home.

15-VI.B. HOUSING QUALITY STANDARDS

The manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

15-VI.C. PAYMENT STANDARD [FR Notice 1/18/17]

Payment Standards

OCHA's payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for OCHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in eight (8) parts as described below:

Part I: Unrestricted Net Assets. This part describes OCHA's policies with regard to oversight of expenditures from its administrative fee reserve.

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

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

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

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

Part VI: Recordkeeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and participants and record retention policies OCHA will follow.

Part VII: Reporting and Recordkeeping for Children with Elevated Blood Lead Level. This part describes OCHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six (6) years of age, and are receiving HCV assistance.

Part VIII: Insufficient Funding. This part describes OCHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence Against Women Act (VAWA): This part describes notification and definitions related to VAWA.

Part X: COVID 19 Pandemic Operations and Eligible HUD Statutory and Regulatory Waivers. This part describes COVID 19 and the waivers that OCHA is utilizing.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

OCHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for OCHA's 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).

In addition, as specified in Notice PIH 2022-18, OCHA may use administrative fee funding for both administrative and "other expenses" needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. OCHA is also permitted to use UNP for these expenses [Notice PIH 2022-18].

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

The threshold amount of fifty thousand ($50,000.00) dollars has been set by OCHA's Board of Commissioners for expenditures which may be made without prior approval of the Board. Any UNP expenditures threshold amount or less shall be approved by the Executive Director. For UNP expenditures that exceed the threshold, the OCHA Board of Commissioners, part of its approval, shall make an affirmative determination that the expenses are necessary and reasonable.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

This part discusses how OCHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

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

See Exhibit 16-1, 16-2 and 16-3 at the end of this chapter for OCHA's current utility allowance schedule.

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

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7; and Notice PIH 2024-34]

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

In the HCV program, the FMR may be established at the ZIP code level, metropolitan market area level, or nonmetropolitan county level. Within each FMR area, the applicable FMR is the HUD-published:

- Small Area FMR (SAFMR);
  - For any metropolitan area designated as an SAFMR area; or
  - Anywhere a PHA has notified HUD it will voluntarily use SAFMRs;
- Metropolitan FMR for any other metropolitan area; or
- FMR for any other non-metropolitan county.

OCHA will establish a payment standard schedule that establishes payment standard amounts for each FMR area within OCHA's jurisdiction, and for each unit size within each FMR areas. In many cases a single FMR area will cover the PHA's entire jurisdiction. Some PHAs' jurisdictions include more than one FMR area. OCHA's established payment standards within the payment standard area always must be within the basic range of the applicable FMR area, or any HUD-approved exception payment standard. Program regulations and this policy refer to the "applicable FMR." The "applicable FMR" is the HUD-published SAFMR for PHAs in mandatory SAFMR areas or for those PHAs that have opted-in to using the SAFMR, both of which are discussed below.

Small Area FMR PHAs (Mandatory and Opt-In) [Notice PIH 2018-01; Notice PIH 2023 32; Notice PIH 2024-34; and Implementing Small Area Fair Market Rents (SAFMR) Guidebook]

SAFMRs are FMRs calculated at the ZIP Code level, rather than for an entire metropolitan or non-metropolitan county.

HUD identifies which metropolitan areas are required to use SAFMRs based on significant voucher concentration challenges and market conditions. PHAs administering the HCV program in those areas are required to use the SAFMRs when establishing payment standards (mandatory SAFMR PHAs). Mandatory SAFMR PHAs must use the SAFMR for any part of their jurisdiction located in the SAFMR area.

Upon notification to HUD, PHAs not located in mandatory SAFMR areas may opt-in and voluntarily adopt SAFMRs for one or more of the FMR areas in which the PHA administers vouchers (opt-in PHAs). A PHA that exercises this option in one metropolitan area or non-metropolitan county is not required to exercise this option in other metropolitan areas or non-metropolitan counties. A PHA that opts in to SAFMRs may subsequently opt out through revision of the administrative plan and notification to HUD.

Alternatively, PHAs may elect to use SAFMRs only as the basis for exception payment standards in some or all of those non-mandatory SAFMR areas that cover or are within their jurisdictions. These PHAs are not considered opt-in PHAs.

When applicable, SAFMRs apply to all tenant-based vouchers in the PHA's jurisdiction, including special vouchers such as the Veterans Affairs Supportive Housing (VASH) program, the Family Unification Program (FUP), and special housing types such as Single Room Occupancies (SROs) and homeownership vouchers. SAFMRs do not apply to manufactured home space rental.

OCHA is a mandatory SAFMR PHA.

The Basic Range [24 CFR 982.503(c) and Notice PIH 2024-34]

OCHA may establish a payment standard within the "basic range" established by HUD —– between 90 and 110 percent of the published FMR for each unit size —without HUD approval or prior notification to HUD. For each payment standard area, OCHA must establish a payment standard amount for each unit size which may be based on the same percentage of the published FMR (for example, all units at 100 percent of FMR), or OCHA may set different payment standards for different unit sizes (for example, 1-bedrooms at 90 percent and 2-bedrooms at 100 percent of the FMR).

Payment Standard Areas [24 CFR 982.503(a)(3) and Notice PIH 2024-34]

OCHA may establish designated payment standard areas within each FMR area where OCHA establishes different payment standards, provided each area is no smaller than a census tract block group. If OCHA designates payment standard areas, then it must include the criteria used to determine the designated areas and the payment standard amounts for those areas in the administrative plan.

OCHA has not established any designated payment standard areas.

Exception Payment Standards [24 CFR 982.503(d), Notice PIH 2018-01, Notice PIH 2024 34, and FR Notice 9/27/21]

There are several options available to increase payment standards above the basic range. These are known as *exception payment standards*, which are payment standards that exceed 110 percent of the published FMR. The following are types of exception payment standards:

- Payment standards based on SAFMRs in ZIP codes where the SAFMR is higher than the applicable metropolitan or non-metropolitan county FMR
- Payment standards greater than 110 percent up to 120 percent of the applicable FMR
- Payment standards over 120 percent of the applicable FMR
- Payment standards up to 120 percent of the FMR for Veterans Affairs Supportive Housing (HUD-VASH)
- Payment standards necessary as a reasonable accommodation

Payment Standards based on SAFMRs in ZIP codes where the SAFMR is Higher than the FMR:

Upon notification to HUD, a PHA that is not located in a SAFMR area or that has not opted to voluntarily adopt SAFMRs may establish an exception payment standard for a zip code area that exceeds the basic range for the metropolitan area or county FMR of up to and including 110 percent of the SAFMR for that zip code area. If an exception area crosses one or more FMR boundaries, then the maximum exception payment standard amount that a PHA may adopt for the area without HUD approval is 110 percent of the zip code area with the lowest SAFMR amount. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area.

Payment Standards Greater than 110 Percent Up to 120 Percent:

Upon notification to HUD, OCHA may establish exception payment standards between 110 percent and 120 percent of the applicable FMR if OCHA meets one of the following criteria:

- Success rate: Fewer than 75 percent of families to which OCHA has issued tenant-based vouchers during the most recent 12-month period for which there is success rate data available have become participants on the program; or
- Rent burden: More than 40 percent of families with tenant-based assistance pay more than 30 percent of their adjusted income as their family share.

OCHA may revert back to the basic range at any time without notification to HUD.

OCHA may combine exception payment standards based on the SAFMR and exception payment standards greater than 110 and up to 120 percent.

Other Exception Payment Standards:

OCHA may request HUD approval to establish exception payment standards up to 120 percent of the FMR when the above criteria do not apply or in order to establish exception payment standards that exceed 120 percent of the FMR. Requests may be made for an entire FMR area or a designated part of the FMR area.

Exception Payment Standards for VASH:

In addition, HUD allows OCHA to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. OCHA may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. If OCHA wants to establish a VASH exception payment standard over 120 percent, OCHA must still request a waiver from HUD (See Section 19-III.E.).

Once exception payment standards are adopted, OCHA may use the exception payment standard for all units, or for only units of a particular size. The exception payment standard may be established for a designated part of the FMR area (called an "exception area") or for the entire FMR area. Exception areas are typically county, city, town, zip code, or census tract areas. However, so long as the exception area is no smaller than census tract block group, OCHA may determine the area for the exception area.

OCHA has not established exception payment standards.

Reasonable Accommodation [24 CFR 982.503(d)(5), 24 CFR 982.505(d), Notice PIH 2024 34, and Notice PIH 2010-26]

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

If required as a reasonable accommodation, OCHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed one hundred twenty (120%) percent of the applicable FMR/SAFMR for the unit size (or in the case of VASH, up to 140 precent of the FMR/SAFMR). OCHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds one hundred twenty (120%) percent of the FMR/SAFMR.

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

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

Payment Standard Below the Basic Range [24 CFR 982.503(e) and Notice PIH 2024-34]

OCHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will consider rent burden on families assisted under the program.

Updating Payment Standards [24 CFR 982.503(c)(3) and Notice PIH 2023-24]

HUD publishes FMRs in the Federal Register and also makes them available on the HUD website with an effective date of October 1. When HUD updates FMRs, OCHA must revise its payment standard amounts and schedule no later than three months following the effective date of the published FMR if revisions are necessary to stay within the basic range. HUD may require OCHA to make further adjustments if it determines that rent burdens for assisted families in OCHA's jurisdiction are unacceptably high [24 CFR 982.503(h)].

OCHA must include a copy of the payment standard schedule in the voucher briefing materials, and HUD strongly encourages OCHA to post their payment standard schedule on their website.

OCHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range," OCHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

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

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

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

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

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

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

Effective dates of changes to payment standard amounts will be determined at the time of update. OCHA will always ensure the payment standards will be within the basic range. OCHA will post its payment standards schedule on the OCHA's website and include a copy in the voucher briefing materials.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

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

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

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

In the utility allowance schedule, OCHA will classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; applicable surcharges and other specified housing services.

The cost of each utility and housing service will be stated separately by unit size and type.

OCHA must state its policy for utility allowance payments in the administrative plan and apply it consistently to all households. OCHA must provide a copy of the utility allowance schedule to HUD.

Energy Efficient Utility Allowance [24 CFR 982.517(b)(2)(ii)]

In addition to the area-wide utility allowance standard, OCHA may maintain an area-wide, energy efficient utility allowance schedule to be used for units that are in a building that meets Leadership in Energy and Environmental Design (LEED) or Energy Star standards.

OCHA will not maintain an energy efficient utility allowance schedule.

Air Conditioning [24 CFR 982.517(b)(1)(iii)]

OCHA must provide a utility allowance for air-conditioning when the majority of housing units in the market provide central air-conditioning or are wired for tenant-installed air conditioners.

OCHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before OCHA will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

Upon request from a family that includes a person with disabilities, OCHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, OCHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as OCHA deems appropriate. The family must request the higher allowance and provide OCHA with an explanation of the need for the individual relief and information about the amount of additional allowance required [see HCV GB, p. 18-8].

OCHA should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company. Policies for granting exception utility allowances can be found in Section 6-III.D. of this plan.

Utility Allowance Revisions

OCHA will review its schedule of utility allowances each year, and must revise the schedule if there has been a change of ten (10%) percent or more in any utility rate since the last time the allowance for that utility was revised

OCHA will maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

Upon approval of the OCHA Board of Commissioners, changes to utility allowance schedules will be effective on February 1st of every year.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

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

16-III.B. INFORMAL REVIEWS

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

Decisions Subject to Informal Review

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

- Denying listing on OCHA's waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease;

- Refusing to process or provide assistance under portability procedures;
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

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

- Discretionary administrative determinations by OCHA;
- General policy issues or class grievances;
- A determination of the family unit size under OCHA subsidy standards;
- An OCHA determination not to approve an extension of a voucher term;
- An OCHA determination not to grant approval of the tenancy;
- An OCHA determination that the unit is not in compliance with the HQS;
- An OCHA determination that the unit is not in accordance with the HQS due to family size or composition.

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

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

Scheduling an Informal Review

A request for an informal review must be made within ten (10) business days from the date of OCHA's denial of assistance.

Except as provided in Section 3-III.G., OCHA will schedule and send written notice of the informal review within ten (10) business days of the family's request.

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

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact OCHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. OCHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

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 OCHA's decision.

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

Remote Informal Reviews [Notice PIH 2020-32]

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows OCHA to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If OCHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

All OCHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations.

OCHA 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, OCHA will 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 childcare 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. OCHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

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. OCHA may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

OCHA 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. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, OCHA may not hold against the individual their inability to participate in the remote informal review, and OCHA 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. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

Conducting Remote Informal Reviews

OCHA 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 OCHA. OCHA 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, OCHA 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.

OCHA must ensure that the applicant has the right to hear and be heard. All OCHA 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.

OCHA will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via videoconferencing, OCHA will ensure that all applicants, applicant representatives, OCHA representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen). If any applicant, applicant representative, OCHA representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.

Whether the informal review is to be conducted via videoconferencing or telephone call-in, OCHA will provide all parties login information and/or conferencing call-in information before the review.

OCHA 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.

Informal Review Decision [24 CFR 982.554(b)]

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

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

- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. OCHA 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, OCHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, OCHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

OCHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within ten (10) business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

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.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

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

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

- Refusing to enter into a HAP contract or approve a lease;
- Terminating housing assistance payments under an outstanding HAP contract;
- Refusing to process or provide assistance under portability procedures.

Decisions Subject to Informal Hearing

Circumstances for which OCHA will 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 OCHA's utility allowance schedule;
- A determination of the family unit size under OCHA'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 OCHA policy and HUD rules;
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)];
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

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

- Discretionary administrative determinations by OCHA;
- General policy issues or class grievances;
- Establishment of OCHA schedule of utility allowances for families in the program;
- An OCHA determination not to approve an extension or suspension of a voucher term;
- An OCHA determination not to approve a unit or tenancy;

- An OCHA determination that a unit selected by the applicant is not in compliance with the HQS;
- An OCHA determination that the unit is not in accordance with HQS because of family size;
- A determination by OCHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

OCHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if OCHA denies a request for a reasonable accommodation (see Chapter 2).

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows OCHA to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If OCHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

OCHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

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

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 hearings 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. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

OCHA 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. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearings is available that appropriately accommodates an individual's disability, OCHA may not hold against the individual their inability to participate in the remote informal hearing, and OCHA should consider whether postponing the remote 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. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Informal Hearings Remotely

OCHA 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 OCHA. OCHA 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, OCHA 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.

OCHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, OCHA policies and processes for remote informal hearings will be conducted in

accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

OCHA will conduct remote informal hearings via telephone conferencing platform, when available. 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 the scheduled remote hearing, OCHA will provide the family with call-in information and an electronic 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 OCHA of any known barriers. OCHA 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.

OCHA 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.

Informal Hearing Procedures

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

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

- The proposed action or decision of OCHA;
- 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 OCHA'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; and
- To whom the hearing request should be addressed.

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

A request for an informal hearing must be made within ten (10) business days from the date of OCHA's decision or notice to terminate assistance.

OCHA will schedule and send written notice of the informal hearing to the family within ten (10) business days of the family's request.

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

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

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

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

The family must request discovery of OCHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date. The family will be allowed to copy any documents related to the hearing at a cost of twenty-five ($.25) cents per page.

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

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

***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.

If the family will be represented by legal counsel the family will notify OCHA thirty-six (36) hours before their hearing date so scheduling with OCHA's legal counsel may be arranged. Rescheduling for the hearing may be required.

OCHA reserves the right to have legal counsel present.

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

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

Attendance at the Informal Hearing

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

- An OCHA representative(s) and any witnesses for OCHA;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative;
- OCHA's counsel;
- Any other person approved by OCHA 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 OCHA's hearing procedures [24 CFR 982.555(4)(ii)].

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

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

OCHA and the family will 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 (4) categories of evidence.

- **Oral evidence**: the testimony of witnesses.
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to OCHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence**: A tangible item relating directly to the case.

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

If either OCHA 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.

Procedures for Rehearing or Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of OCHA will take effect and another hearing will not be granted.

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

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

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

- **OCHA Notice to the Family**: The hearing officer will determine if the reasons for OCHA's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if OCHA and the family were given the opportunity to examine any relevant documents in accordance with OCHA policy.
- **OCHA Evidence to Support OCHA's Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support OCHA's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and OCHA policies. If the grounds for termination are not specified in the regulations or in compliance with OCHA policies, then the decision of OCHA will be overturned.

The hearing officer will issue a written decision to the family no later than ten (10) business days after the hearing.

The report will contain the following information:

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

Procedures for a Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of OCHA will take effect and another hearing will not be granted.

In addition, within ten (10) business days after the date the hearing officer's report is mailed to the participant, the participant may request a further hearing. A further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of OCHA to grant or deny the request for further hearing or rehearing.

Effect of Final Decision **[24 CFR 982.555(f)]**

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

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

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

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

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while OCHA's 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 OCHA's informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

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

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for 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 OCHA 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 OCHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, OCHA will notify the family of the results of the USCIS verification. The family will have thirty (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 OCHA with a copy of the written request for appeal and the proof of mailing within ten (10) business days.

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 OCHA, of its decision. When the USCIS notifies OCHA of the decision, OCHA will notify the family of its right to request an informal hearing.

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 OCHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of OCHA's notice of denial or within thirty (30) days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

OCHA will 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 OCHA 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 OCHA documents no later than 12:00 p.m. on the business day prior to the hearing.

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

The family must also be provided the opportunity to refute evidence relied upon by OCHA, and to confront and cross-examine all witnesses on whose testimony or information OCHA 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, OCHA will provide competent interpretation services, free of charge.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. OCHA will not provide a transcript of an audio taped hearing.

Hearing Decision

OCHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within fourteen (14) 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 OCHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of OCHA's notice of termination or within thirty (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)]

OCHA must retain for a minimum of five (5) years the following documents that may have been submitted to OCHA by the family, or provided to OCHA as part of the USCIS appeal or OCHA's 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 final informal hearing decision.

PART IV: OWNER OR FAMILY DEBTS TO OCHA

16-IV.A. OVERVIEW

OCHA is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to OCHA [24 CFR 982.54]. If the family breaches an agreement with OCHA to pay amounts owed to OCHA, or amounts paid to an owner by OCHA, OCHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to OCHA or amounts paid to an owner by OCHA. OCHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii).

This part describes OCHA's policies for recovery of monies owed to OCHA by families or owners.

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

OCHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

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

- Collection agencies;
- Small claims court;
- Civil law suit.

16-IV.B. REPAYMENT POLICY

Owner Debts to OCHA

Any amount due to OCHA by an owner must be repaid by the owner within thirty (30) days of OCHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, OCHA 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 OCHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by OCHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, OCHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to OCHA

Families are required to reimburse OCHA if they were charged less rent than required because the family either underreported or failed to report income. OCHA is required to determine retroactive rent amounts as far back as OCHA has documentation of family unreported income [Notice PIH 2018-18].

Any amount owed to OCHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within thirty (30) days, OCHA will offer to enter into a repayment agreement in accordance with the policies below.

Refusal to Enter into an Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, breaches a repayment agreement, or does not repay the amount owed within twenty-four (24) months OCHA must terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection [Notice PIH 2018-18].

Repayment Agreement [24 CFR 792.103]

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

General Repayment Agreement Guidelines for Families

Down Payment Requirement

Before executing a repayment agreement with a family, OCHA will require a down payment of twenty-five (25%) percent of the total amount owed within thirty (30) days of notification of the debt. The remaining balance to be paid within twenty-four (24) months.

Payment Thresholds

Notice PIH 2018-18 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 forty (40%) percent of the family's monthly adjusted income. However, a family may already be paying forty (40%) percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that OCHA has the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

OCHA has established the following thresholds for repayment of debts:

- A minimum payment of twenty-five ($25) dollars per month or forty (40%) percent of adjusted income including rent payment, whichever is larger, is required.
- Lump sum payments are encouraged to expedite the payment timeline and to finalize payments with the twenty-four (24) month timeframe.
- The payment agreement term shall range from two (2) months to twenty-four (24) months, but shall in any event be the minimum time period in which the family can be reasonably expected to repay the debt owed.
- If a family can provide evidence satisfactory to OCHA that the threshold applicable to the family's debt would impose an undue hardship, OCHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, OCHA will consider all relevant information, including the following:
- The amount owed by the family to OCHA;
- 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 monthly repayment charge and rent payment combined must not exceed forty (40%) percent of the family's monthly adjusted income; and
- The family's history of meeting its financial responsibilities.

Execution of the Agreement

Any repayment agreement between OCHA and a family must be signed and dated by both the family and OCHA [Notice PIH 2018-18]. The repayment agreement shall be executed for OCHA by the Director of Leased Housing or designee.

Methods of Payment

Payments shall be made by money order, personal check or cashier's check. If any check offered by the family is returned for any reason, the family will pay OCHA a returned check fee. The family's offering of a second returned check will be required to pay all remaining monies due by money order or certified check.

Due Dates

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

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 OCHA, OCHA will send the family a delinquency notice giving the family ten (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 OCHA may, in its sole discretion, terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

No Offer of Repayment Agreement

OCHA, in its sole discretion, may enter into repayment agreements with owners or families. OCHA will not enter into repayment agreements when:

- There is an existing repayment agreement between OCHA and the family;
- The family has already had two repayment agreements in the past (even if they are both paid in full);
- OCHA determines that the participant has committed or has attempted to commit program fraud;
- OCHA determines that the amount owed is more than the family can repay in a reasonable period of time; or
- If the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Request to Move

No move with continued assistance will be approved until the debt is paid in full, unless the move is the result of one of the following causes:

- Family size exceeds the HQS maximum occupancy standards;
- The HAP contract is terminated due to owner non-compliance or opt-out;
- A man-made or natural disaster;
- The move is pursuant to a reasonable accommodation approved by OCHA; or
- The move is necessary as a result 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.

OCHA may require that a payment agreement be current before issuing a voucher to move in these cases.

Repayment Agreements Involving Improper Payments

All repayment agreements must be in writing, dated, signed by both the family and OCHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, 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;
- A statement clarifying that each month the family not only must pay to OCHA 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; and
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure OCHA's performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect OCHA 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 (1) 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. [24 CFR 985.107].
- HUD may determine that OCHA'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].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

OCHA will submit the HUD-required SEMAP certification form within sixty (60) calendar days after the end of its fiscal year. The certification must be approved by an OCHA Board resolution and signed by OCHA's Executive Director.

The failure of OCHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

OCHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and Form HUD-52648]

SEMAP indicators, listed below, contains a description of each indicator, and explains the basis for points awarded under each indicator.

Indicator 1: Selection from the waiting list

Maximum Score: 15

- This indicator shows whether OCHA has written policies in its administrative plan for selecting applicants from the waiting list and whether OCHA follows these policies when selecting applicants from the waiting list.
- Points are based on the percent of families that are selected from the waiting list in accordance with OCHA's written policies, according to OCHA's quality control samples.

Indicator 2: Rent reasonableness

Maximum Score: 20

- This indicator shows whether OCHA 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 at the required times .
- Points are based on the percent of units for which OCHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to OCHA's quality control sample.

Indicator 3: Determination of adjusted income

Maximum Score: 20

- This indicator measures whether OCHA 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 OCHA's quality control sample.

Indicator 4: Utility allowance schedule

Maximum Score: 5

- This indicator shows whether OCHA maintains an up-to-date utility allowance schedule.
- Points are based on whether OCHA has reviewed the utility allowance schedule and adjusted it when required, according to OCHA's certification.

Indicator 5: HQS quality control inspections

Maximum Score: 5

- This indicator shows whether OCHA supervisor reinspects a sample of units under contract during OCHA's fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.

- Points are based on whether the required quality control reinspections were completed, according to the OCHA'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 twenty-four (24) hours from the inspection and all other deficiencies are corrected within no more than thirty (30) calendar days from the inspection or any OCHA-approved extension.
- Points are based on whether OCHA corrects all HQS deficiencies in accordance with required time frames, according to OCHA's certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether OCHA 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 OCHA'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 OCHA has adopted and implemented written policies in accordance with SEMAP requirements, according to OCHA's certification.

Indicator 8: FMR limit and payment standards

Maximum Points: 5

- This indicator shows whether OCHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in OCHA's jurisdiction, that are within the basic range of ninety (90%) to one hundred ten (110%) percent of the published FMR.
- Points are based on whether OCHA has appropriately adopted a payment standard schedule(s), according to OCHA's certification.

Indicator 9: Annual reexaminations

Maximum Points: 10

- This indicator shows whether OCHA completes a reexamination for each participating family at least every twelve (12) months.
- Points are based on the percent of reexaminations that are less than two (2) months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

- This indicator shows whether OCHA 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 on or before 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 OCHA 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 two (2) months overdue, according to data from PIC.

Indicator 13: Lease-up

Maximum Points: 20

- This indicator shows whether OCHA enters HAP contracts for at least 98 percent of its allocated budget authority for the same calendar year. OCHA 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 OCHA 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.

PART VI: RECORDKEEPING

16-VI.A. OVERVIEW

OCHA will 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, OCHA will ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101]

During the term of each assisted lease, and for at least three (3) years thereafter, OCHA will keep:

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

In addition, OCHA will keep the following records for at least three (3) 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 OCHA budget and financial statements for the program;

- Records to document the basis for OCHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

OCHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

OCHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires OCHA 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.

OCHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under OCHA'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.

16-VI.C. RECORDS MANAGEMENT

OCHA will maintain applicant and participant files and information in accordance with the regulatory requirements described below.

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

OCHA 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 HUD 9886-A]

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-A, 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 OCHA may release the information collected.

Upfront Income Verification (UIV) Records

OCHA will ensure that all UIV data collected through HUD's Enterprise Income Verification (EIV) System is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

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

Criminal Records

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

OCHA ensures that any criminal record received by OCHA 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 OCHA's action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

OCHA ensures that any sex offender registration information received by OCHA 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 OCHA's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information or is obtained by OCHA other than under 24 CFR 5.905.

Medical/Disability Records

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

Documentation of Domestic Violence, Dating Violence, Sexual Assault or Stalking

For OCHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault or stalking, see Section 16-IX.

PART VII: REPORTING AND RECORDKEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

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

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

OCHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

16-VII.C. DATA COLLECTION AND RECORDKEEPING [24 CFR 35.1225(f)]

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

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

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, OCHA is not providing such a report.

PART VIII: INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow OCHA 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 OCHA denies a family a portability move based on insufficient funding, OCHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact OCHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology OCHA will use to determine whether or not OCHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract. OCHA must identify in the administrative plan, in the event of insufficient funding, considering any cost saving measures taken by OCHA, a description of the factors OCHA will consider when determining which HAP contracts to terminate first. See Chapter 12 for a description of these factors.

16-VIII.B. METHODOLOGY

OCHA 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 OCHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, OCHA 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 and funding reserves, or if OCHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, OCHA will be considered to have insufficient funding.

16-VIII.C. INSUFFICIENT FUNDING

Should OCHA determine it does not have sufficient funding to support continued assistance for families in the program, families that have most recently been admitted to the HCV program will be the first to be terminated from the program. OCHA will issue such families and owners written 30-day notice of termination. Families that are within their first year of their Housing Assistance Payment (HAP) contract are not excluded from termination and such families and owners may receive 30-day notices.

Project-Based HCV tenants, special programs, elderly and disabled are not subject to termination resulting from insufficient funding.

Families that are terminated from the program due to insufficient funding will receive priority to reenter the program before new applicants are selected from the HCV wait list and before Project-Based families may move with tenant-based assistance. Families terminated as a result of insufficient funding will be added to the HCV wait list. Families terminated as a result of insufficient funding may be added to the HCV wait list at any time, even if the wait list is closed. When funding is available, these families will be selected from the wait list first. Terminated families must submit any change to their household composition, income, and/or address in writing to ensure they receive notices from OCHA.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence Against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.HG, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- 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 *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; or
    - The type of relationship; and
    - 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, under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
    - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
    - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
    - A person with whom the victim shares a child in common
    - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic* abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
    - Restrict a person's access to money, assets, credit, or financial information
    - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
    - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- 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 their safety or the safety of others or suffer substantial emotional distress.
- The term *technological* abuse means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
    - Internet enabled devices
    - Online spaces and platforms
    - Computers
    - Mobile devices
    - Cameras and imaging programs
    - Apps
    - Location tracking devices
    - Communication technologies
    - Any other emergency technologies

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

OCHA will inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

OCHA is not limited to providing VAWA information at the times specified in the above policy. If OCHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases OCHA make alternative delivery arrangements that will not put the victim at risk.

When discussing VAWA with the victim, OCHA 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

OCHA is no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, OCHA may still choose to inform them.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

When OCHA 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. OCHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy OCHA'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.

OCHA 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].

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where OCHA 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, OCHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). OCHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to OCHA. Individuals have 30 calendar days to return third-party verification to OCHA. If OCHA does not receive third-party documentation, and OCHA will deny or terminate assistance as a result, OCHA must hold separate hearings for the tenants [Notice PIH 2017-08].

OCHA 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)]

OCHA 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)]

In order to deny relief for protection under VAWA, OCHA will provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within fourteen (14) business days from the date of receipt, or such longer time as OCHA may allow, OCHA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to OCHA regarding domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that OCHA (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.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, OCHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

EXHIBIT 16-1

UTILITY ALLOWANCE SCHEDULE

Effective February 1, 2025

Detached, Duplex, Single Family Home

Utility or Service	Monthly Dollar Allowance						
	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR	6-BR
HEATING							
a. Natural Gas	23.00	26.00	34.00	37.00	43.00	50.00	58.00
b. Bottled Gas (Propane)	54.00	61.00	72.00	80.00	88.00	98.00	101.00
d. Electric	18.00	22.00	28.00	35.00	39.00	42.00	45.00
AIR CONDITIONING	5.00	6.00	8.00	9.00	11.00	14.00	16.00
COOKING							
a. Natural Gas	7.00	8.00	8.00	10.00	10.00	11.00	13.00
b. Bottled Gas (Propane)	14.00	16.00	18.00	19.00	21.00	22.00	24.00
c. Electric	4.00	6.00	7.00	8.00	11.00	13.00	14.00
OTHER ELECTRIC LIGHTING							
REFRIGERATION, ETC.	11.00	13.00	15.00	17.00	19.00	20.00	22.00
WATER HEATING							
a. Natural Gas	10.00	13.00	16.00	20.00	23.00	24.00	26.00
b. Bottled Gas (Propane)	26.00	29.00	32.00	35.00	37.00	38.00	40.00
c. Electric	10.00	13.00	17.00	20.00	24.00	27.00	31.00
WATER	19.00	21.00	24.00	26.00	27.00	30.00	31.00
SEWER	11.00	13.00	15.00	21.00	24.00	26.00	28.00
TRASH COLLECTION	20.00	20.00	20.00	20.00	20.00	20.00	20.00
RANGE	3.00	3.00	3.00	3.00	3.00	3.00	3.00
REFRIGERATOR	3.00	3.00	3.00	3.00	3.00	3.00	3.00
TOTAL ELECTRIC UNIT	48.00	60.00	75.00	89.00	104.00	116.00	128.00

EXHIBIT 16-2

UTILITY ALLOWANCE SCHEDULE

Effective February 1, 2025

Low-Rise/High-Rise Apartment, Rowhouse, Townhouse

Utility or Service	Monthly Dollar Allowance					
	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR
HEATING						
a. Natural Gas	19.00	24.00	29.00	32.00	38.00	46.00
b. Bottled Gas (Propane)	0.00	0.00	0.00	0.00	0.00	0.00
d. Electric	15.00	19.00	24.00	29.00	33.00	36.00
AIR CONDITIONING	4.00	6.00	7.00	8.00	11.00	12.00
COOKING						
a. Natural Gas	7.00	8.00	8.00	10.00	10.00	11.00
b. Bottled Gas (Propane)	0.00	0.00	0.00	0.00	0.00	0.00
c. Electric	4.00	6.00	7.00	8.00	11.00	13.00
OTHER ELECTRIC LIGHTING						
REFRIGERATION, ETC.	11.00	14.00	16.00	17.00	18.00	20.00
WATER HEATING						
a. Natural Gas	10.00	13.00	16.00	20.00	23.00	24.00
b. Bottled Gas (Propane)	0.00	0.00	0.00	0.00	0.00	0.00
c. Electric	10.00	13.00	17.00	20.00	24.00	27.00
WATER	19.00	21.00	24.00	26.00	27.00	30.00
SEWER	11.00	13.00	15.00	21.00	24.00	26.00
TRASH COLLECTION	20.00	20.00	20.00	20.00	20.00	20.00
RANGE	3.00	3.00	3.00	3.00	3.00	3.00
REFRIGERATOR	3.00	3.00	3.00	3.00	3.00	3.00
TOTAL ELECTRIC UNIT	44.00	58.00	71.00	82.00	97.00	108.00

.EXHIBIT 16-3

UTILITY ALLOWANCE SCHEDULE

Effective February 1, 2025

Mobile Home

Utility or Service	Monthly Dollar Allowance					
	0-BR	1-BR	2-BR	3-BR	4-BR	5-BR
HEATING						
a. Natural Gas	26.00	32.00	40.00	44.00	53.00	62.00
b. Bottled Gas (Propane)	58.00	66.00	78.00	85.00	98.00	107.00
d. Electric	22.00	25.00	33.00	39.00	45.00	48.00
AIR CONDITIONING	5.00	6.00	8.00	10.00	13.00	15.00
COOKING						
a. Natural Gas	7.00	8.00	8.00	10.00	10.00	11.00
b. Bottled Gas (Propane)	14.00	16.00	18.00	19.00	21.00	22.00
c. Electric	4.00	6.00	7.00	8.00	11.00	13.00
OTHER ELECTRIC LIGHTING						
REFRIGERATION, ETC.	11.00	14.00	16.00	17.00	18.00	20.00
WATER HEATING						
a. Natural Gas	10.00	13.00	16.00	20.00	23.00	24.00
b. Bottled Gas (Propane)	26.00	29.00	32.00	35.00	37.00	38.00
c. Electric	10.00	13.00	17.00	20.00	24.00	27.00
WATER	19.00	21.00	24.00	26.00	27.00	30.00
SEWER	11.00	13.00	15.00	21.00	24.00	26.00
TRASH COLLECTION	20.00	20.00	20.00	20.00	20.00	20.00
RANGE	3.00	3.00	3.00	3.00	3.00	3.00
REFRIGERATOR	3.00	3.00	3.00	3.00	3.00	3.00
TOTAL ELECTRIC UNIT	52.00	64.00	81.00	94.00	111.00	123.00

EXHIBIT 16-4

EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Emergency Transfers: Housing Choice Voucher Program

Oklahoma City Housing Authority (OCHA) Housing Choice Voucher (HCV) Program 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),[1] OCHA HCV Program 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.[2] The ability of OCHA 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.

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 OCHA HCV Program is 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.

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 OCHA's Director of HCV Program and submit a written request to relocate to **another eligible approved HCV unit**. OCHA 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 OCHA's HCV 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.

[1] 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.

[2] 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.

Confidentiality
OCHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives OCHA 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(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under VAWA For All Tenants for more information about OCHA'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
OCHA cannot guarantee that a transfer request will be approved or how long it will take. OCHA will, however, act as quickly as possible to issue a new voucher to a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit.

At the tenant's request, OCHA 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.

Safety and Security of Tenants
Pending processing of the relocation, 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 & Incest National Network's National Sexual Assault Hotline at 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.

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:

Oklahoma City Police Department	YWCA Oklahoma City	Oklahoma 24-Hour Safeline
Victim Services Program	24-Hour Domestic Violence Hotline	1-800-522-SAFE (7233)
(405) 297-3422	(405) 917-9922	

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:

Oklahoma City Police Department	YWCA Oklahoma City	Oklahoma 24-Hour Safeline
Victim Services Program	24-Hour Sexual Assault Hotline	1-800-522-SAFE (7233)
(405) 297-3422	(405) 943-7273	

Victims of stalking seeking help may contact:

Oklahoma City Police Department	YWCA Oklahoma City	Oklahoma 24-Hour Safeline
Victim Services Program	24-Hour Domestic Violence Hotline	1-800-522-SAFE (7233)
(405) 297-3422	(405) 917-9922	

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and OCHA policies related to the project-based voucher (PBV) program in nine (9) parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, the cap on the number of assisted units in each project, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors OCHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to inspections, the type and frequency of inspections, and housing accessibility for persons with disabilities.

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

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

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how OCHA and the owner will select a family to receive PBV assistance.

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

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

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

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

The Project-Based Voucher (PBV) program allows OCHA to administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to twenty (20%) percent of its authorized units (plus an additional 10 percent for units meeting certain criteria) and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. Assistance may be tied to a multifamily building or a single-family building. OCHA may only operate a PBV program if doing so is consistent with OCHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. OCHA has discretion whether to operate a PBV program. HUD approval is not required, except that OCHA must notify HUD of its intent to project-base its vouchers and when OCHA executes, amends, or extends a HAP contract. OCHA must also state in its administrative plan that it will engage in project-basing and must amend its administrative plan to include all PBV-related matters over which OCHA is exercising its discretion.

OCHA will operate a project-based voucher program using up to twenty (20%) percent of its authorized units for project-based assistance. The purpose of the PBV program is to induce property owners to make standard housing available to low-income families at rents within the HCV program existing housing FMRs.

Separate funding is not provided for the PBV program. OCHA may enter into a HAP contract for existing housing, newly constructed or rehabilitated housing (see definitions below). During the term of the HAP contract, OCHA makes housing assistance payments to the owner for units leased and occupied by eligible families.

17-I.B. PBV DEFINITIONS [24 CFR 983.3]

The following terms apply to the PBV program and are used throughout this chapter:

Excepted units are units in a project not counted toward the project cap because they exclusively serve or are made available to certain families in accordance with 24 CFR 983.54(c)(2).

Excluded units are units in a project not counted toward the program cap or project cap because they meet certain criteria in accordance with 24 CFR 983.59.

Existing housing is a project that meets the following criteria:

- All the proposed contract units in the project either fully comply or substantially comply with HQS on the proposal or project selection date, as determined per 24 CFR 983.103(a). (The units must fully comply with HQS at the time required by 24 CFR 983.103(c). The units substantially comply with HQS if:
  - The units only require repairs to current components or replacement of equipment and/or materials by items of substantially the same kind to correct deficiencies; and
  - OCHA determines all deficiencies can reasonably be corrected within a 30-day period, taking into consideration the totality of the deficiencies in the project.
- OCHA determines the project is not reasonably expected to require substantial improvement and the owner certifies it has no plans to undertake substantial improvement from the proposal submission date (for projects subject to competitive selection) or the project selection date (for projects excepted from competitive selection) through the first two years of the HAP contract.
- The following units do not qualify as existing housing:
  - Units for which rehabilitation or new construction began after proposal submission or the date of board resolution but prior to the effective date of an AHAP (if applicable); and
  - Units that were newly constructed or rehabilitated in violation of program requirements.

An *independent entity* is either:

- The unit of general local government; however, if OCHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or
- A HUD-approved entity that is autonomous and recognized under state law as a separate legal entity from OCHA. The entity must not be connected financially (except regarding compensation for services performed for OCHA-owned units) or in any other manner that could result in OCHA improperly influencing the entity.

An *in-place family* is a family residing in a proposed contract unit on the proposal or project selection date.

Newly constructed housing is a project containing housing units that do not exist on the proposal or project selection date and are developed after the date of selection for use under the PBV program.

An *OCHA-owned unit* is a dwelling unit in a project that is:

- Owned by OCHA (including having a controlling interest in the entity that owns the project);
- Owned by an entity wholly controlled by OCHA; or
- Owned by a limited liability company or limited partnership in which OCHA (or an entity wholly controlled by OCHA) holds a controlling interest in the managing member or general partner.
  - *A controlling interest* is:
    - Holding more than 50 percent of the stock of any corporation;
    - Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation);
    - Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of OCHA;

- Holding more than 50 percent of all managing member interests in an LLC;
- Holding more than 50 percent of all general partner interests in a partnership; or
- Equivalent levels of control in other ownership structures.

A *project* can be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. "Contiguous" in this definition includes "adjacent to," as well as touching along a boundary or a point. OCHA may, in its administrative plan, establish the circumstances under which it will define a project as only one of the following: a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

OCHA will not define circumstances that limit the definition of the term *project*.

Rehabilitated housing is a project which is developed for use under the PBV program, in which all proposed contract units exist on the proposal or project selection date, but which does not qualify as existing housing.

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Income (AMI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Substantial improvement is one of the following activities undertaken at a time beginning from the proposal submission date (for projects subject to competitive selection) or from the project selection date (for projects excepted from competitive selection), or undertaken during the term of the PBV HAP contract:

- Remodeling that alters the nature or type of housing units in a project;
- Reconstruction; or
- A substantial improvement in the quality or kind of equipment and materials. The replacement of equipment and/or materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does not constitute substantial improvement.

17-I.C. MAXIMUM NUMBER OF PBV UNITS (PERCENTAGE LIMITATION) [24 CFR 983.6]

Program Cap

If OCHA decides to operate a PBV program, OCHA's PBV program is funded with a portion of appropriated funding (budget authority) available under OCHA's voucher Annual Contributions Contract (ACC). Except for certain units discussed below, OCHA may commit project-based assistance to no more than 20 percent of its authorized voucher units, as adjusted, at the time of commitment, with the ability to project-base an additional 10 percent of units that meet certain requirements. An analysis of impact must be conducted if OCHA is project-basing 50 percent or more of OCHA's authorized voucher units.

All PBV units which OCHA has selected (from the time of the proposal or project selection date) or which are under an Agreement to Enter into a HAP Contract (AHAP) or HAP contract for PBV assistance count toward the 20 percent maximum or increased cap. OCHA is responsible for determining the amount of budget authority that is available for project-based vouchers and for ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC. Appendix I of Notice PIH 2017-21 contains a sample PBV program cap calculation worksheet. If PBV units are already selected for project-based assistance either under an AHAP or a HAP contract, OCHA is not required to reduce the number of units if the number of authorized units is subsequently reduced.

Increased Cap [24 CFR 983.6(d)]

OCHA may project-base an additional 10 percent of its authorized voucher units above the 20 percent program limit, provided the units meet requirements outlined in 24 CFR 983.6(d)(1) or (2). The units may be distributed among one, all, or a combination of the categories described below, as long as the total number of units does not exceed the 10 percent cap. The PBV HAP contract must specify, and the owner must set aside, the number of units meeting the conditions to qualify for the increased program cap. To qualify for the increased program cap, the unit must be occupied by the type of family specified in the applicable paragraph below.

For units under a HAP contract that was first executed on or after April 18, 2017, or added on or after that date to a current HAP contract entered into prior to April 19, 2017, units qualify under the increased program cap if the units meet one or more of the conditions below [24 CFR 983.6(d)(1)]:

- The units are specifically made available to house individuals and families that meet the definition of *homeless* under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.

- A family qualifies if they were homeless at the time the family first occupies the unit.

- The units are specifically made available to house families that are comprised of or include a veteran at the time the family first occupies a unit.
  - A *veteran* is a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom.
- The units provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
  - A disabled or elderly member of the family must be eligible for one or more of the supportive services at the time the family first occupies the unit. The member of the family may choose not to participate in the services.
  - *Supportive housing* means that the project makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing.
  - Such supportive services need not be provided by the owner or onsite but must be reasonably available to the families receiving PBV assistance in the project.
  - OCHA's administrative plan must describe the type and availability of supportive services OCHA will consider as qualifying for the 10 percent increased cap.
- The units are located in areas where vouchers are difficult to use.
- The units replace, on a different site, units listed in 24 CFR 983.59(b)(1) and (2) for which OCHA had authority under 24 CFR 983.59 to commit PBV assistance on the original site without the units counting toward the program cap or project cap.

The increased program cap also applies to units that are part of a HAP contract executed on or after December 27, 2020, or are added on or after that date to any current HAP contract, including a contract entered into prior to December 27, 2020, and meet the following requirements [24 CFR 983.6(d)(2)]:

- The units are exclusively made available to eligible youth receiving Family Unification Program (FUP) or Foster Youth to Independence (FYI) assistance; and
- If the units exclusively made available to eligible youth use FUP assistance that is normally available for eligible families and youth, OCHA determines and documents that the limitation of the units to youth is consistent with the local housing needs of both eligible FUP populations (families and youth) and amends its administrative plan to specify that FUP PBV assistance is solely for eligible youth.

OCHA will project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

17-I.D. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT [24 CFR 983.54]

Project Cap [24 CFR 983.54(a)]

In general, OCHA may not select a proposal for units in a project or enter into an AHAP or a HAP contract to provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted, as adjusted) in the project.

Higher Project Cap [24 CFR 983.54(b)]

OCHA may provide PBV assistance to the greater of 25 units or 40 percent of the number of dwelling units (assisted and unassisted, as adjusted) in the project if the project is located in an area where vouchers are difficult to use [24 CFR 983.54(b)]. An area where a voucher is difficult to use is defined as:

- A census tract with a poverty rate of 20 percent or less, as determined by HUD;
- A ZIP code area where the rental vacancy rate is less than 4 percent, as determined by HUD; or
- A ZIP code area where 90 percent of the Small Area FMR is more than 110 percent of the metropolitan area or county FMR.

Exceptions to the Project Cap [24 CFR 983.54(c)]

Certain units are removed from the number of dwelling units for purposes of calculating the project cap. These are known as *excepted units*, which are defined as units in a project not counted toward the project cap because they exclusively service or are made available to certain families.

OCHA determines the number of units in the project for which OCHA will provide project-based assistance, including whether and how many units will be excepted. The PBV HAP contract must specify, and the owner must set aside, the number of excepted units made available for occupancy by families who qualify for the exception. For a unit to be considered excepted, it must be occupied by a family who qualifies for the exception.

Which units are considered excepted differs depending on when the HAP contract was executed. Contracts executed prior to April 18, 2017, follow the "old" statutory PBV requirements for excepted units. Projects where the HAP contract was executed on or after April 18, 2017, follow new requirements. In this case, PBV units are not counted toward the project cap if the units are:

- Exclusively for elderly families;
- Exclusively made available to eligible youth receiving FUP or FYI assistance; or
- For households eligible for supportive services available to all families receiving PBV assistance in the project.

A project is not limited to a single exception category but may include excepted units from any of the exception categories.

Units that No Longer Qualify as Excepted Units or Units under the Increased Program Cap [24 CFR 983.262(b)]

In order to qualify as either excepted units or units under the increased program cap, units must be occupied by a family that meets the exception criteria applicable to the unit. Once the family vacates the unit, OCHA must select a new family from the waiting list via an admission preference, and the unit must be made available to and occupied by a family that meets the applicable exception.

If, due to circumstances beyond the control of the family, the unit is no longer qualified as an excepted unit or unit under the increased program cap, the unit will continue to count as long as the family resides in the unit. However, requirements for wrong-sized units will apply.

17-I.E. UNITS NOT SUBJECT TO THE PBV PROGRAM CAP OR PROJECT CAP [FR Notice 1/18/17 and 24 CFR 983.59]

For HAP contracts that first became effective on or after April 18, 2017, OCHA may commit project-based assistance to units that meet the requirements below without the units counting toward the program cap (including the 10 percent exception) or project cap. These are known as excluded units and fall into two different categories:

- **Existing or Rehabilitation Units:** In the five years prior to the request for proposals (RFP) or the proposal or project selection date (in the case of selection without RFP), these units fall into one of the categories described below, provided that the units are removed from all categories prior to the effective date of the HAP contract. These units include units that received one of the following forms of HUD assistance:
  - Public Housing Capital or Operating Funds;
  - Project-Based Rental Assistance (Section 8), including units assisted under Section 8 Moderate Rehabilitation (Mod Rehab) and Mod Rehab Single-Room Occupancy (SRO) programs;
  - Housing for Elderly (Section 202);
  - Housing for Persons with Disabilities (Section 811);
  - Rental Assistance Program (RAP) (Section 236(f)(2) of the National Housing Act); or Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978).

  Or the units have been subject to a federally required rent restriction under one of the following programs:
  - The Low-Income Housing Tax Credit program (26 U.S.C. 42);
  - Section 515 Rural Rental Housing Loans (42 U.S.C. 1485); or
  - The following HUD programs:
  - Section 236;
  - Section 221(d)(3) Below Market Interest Rate;
  - Housing For the Elderly (Section 202 of the Housing Act of 1959);
  - Housing for Persons with Disabilities (Section 811 of the Cranston-Gonzalez National Affordable Housing Act);

- Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments Act of 1978); or
- Any other program identified by HUD through Federal Register notice subject to public comment.

- **Replacement Units:** Newly constructed units developed under the PBV program are also considered excluded units if the primary purpose of the newly constructed units is or was to replace units that meet the criteria listed above. The newly constructed unit must be located on the same site as the unit it is replacing; however, an expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project is acceptable as long as a majority of the replacement units are built back on the site of the original project and any replacement units that are not located on the existing site are part of a project that shares a common border with, are across a public right of way from, or touch that site. In addition, in order for the replacement units to be excluded from the program and project caps, one of the following must be true:
  - Former residents of the original project must be provided with a selection preference that provides the residents with the right of first occupancy at the PBV newly constructed project when it is ready for occupancy; or
  - Prior to the demolition of the original project, the PBV newly constructed project must have been identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

Units in the following projects are not subject to the program cap or project cap because they are excluded units:

17-I.F. OCHA-OWNED UNITS [24 CFR 982.4 and 983.57]

For OCHA-owned units (as defined in 24 CFR 982.4), an independent entity (as defined in 24 CFR 982.4) must perform the following functions:

- Determine rent to owner, including rent reasonableness and calculating any rent adjustments by HUD's Operating Cost Adjustment Factor (OCAF) (where applicable), in accordance with 24 CFR 983.301 through 983.305;
- Perform unit inspections in accordance with 24 CFR 983.103(g);
- When the owner carries out development activity or substantial improvement, the independent entity must review the evidence and work completion certification submitted by the owner and determine if the units are complete in accordance with 24 CFR 983.156; and
- Determine whether to approve substantial improvement to units under a HAP contract in accordance with 24 CFR 983.212.

OCHA may only compensate the independent entity from OCHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). OCHA may not use other program receipts to compensate the independent entity for its services. OCHA and the independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

17-I.G. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of OCHA's policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2(c).

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

17-I.H. RELOCATION REQUIREMENTS [24 CFR 983.7]

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

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. OCHA may not use voucher program funds to cover relocation costs, except that OCHA may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of OCHA to ensure the owner complies with these requirements.

17-I.I. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

OCHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, OCHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PROPOSAL AND PROJECT SELECTION

17-II.A. OVERVIEW

OCHA must include a description of the circumstances under which OCHA will use noncompetitive selection for PBV projects and competitive selection for PBV proposals, including the procedures for submission and selection of such proposals, in the administrative plan [24 CFR 983.10(b)(3)].

Before selecting a PBV proposal, OCHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.52 and 983.53], complies with the cap on the number of PBV units per project [24 CFR 983.54], and meets the site selection standards [24 CFR 983.55]. OCHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51.

OCHA may allow for entities that have site control to submit proposals provided the entity will be the owner prior to entering into the AHAP or HAP contract. An owner may submit, and OCHA may select, a single proposal covering multiple projects where each project consists of a single-family building, provided all projects are the same housing type (existing, rehabilitated, or newly constructed) [24 CFR 983.51(a)].

OCHA may not commit project-based assistance to a project if the owner or any principal or interested party is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR Part 2424 or is listed on the U.S. General Services Administration list of parties excluded from federal procurement or non-procurement programs. HUD approval of specific projects or owners is not required. For example, owner proposal selection does not require submission of form HUD-2530 (Previous Participation Certification) or other HUD previous participation clearance.

Selection of PHA-Owned Units [24 CFR 983.51(h)]

OCHA-owned unit (as defined in 24 CFR 982.4) may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that OCHA-owned units were appropriately selected based on the selection procedures specified in OCHA's administrative plan.

With the exception of projects selected in accordance with 24 CFR 983.51(c) (projects that meet the criteria to be excepted from competitive selection), OCHA's selection procedures must be designed in a manner that does not effectively eliminate the submission of proposals for non-OCHA-owned units or give preferential treatment (e.g., additional points) to OCHA-owned units.

17-II.B. COMPETITIVE SELECTION OF PROPOSALS [24 CFR 983.51(b)]

OCHA must select PBV proposals in accordance with the selection procedures in OCHA's administrative plan. OCHA must select PBV proposals by either of the following two methods:

- OCHA request for PBV Proposals. OCHA may solicit proposals by using a RFP to select proposals on a competitive basis in response to OCHA's request. OCHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

OCHA may establish selection procedures that combine or are in conjunction with other federal, state, or local government housing assistance, community development, or supportive services competitive selection processes.

If OCHA's selection process is combined and administered in conjunction with another RFP process, OCHA remains responsible for complying with proposal selection procedures as described in 24 CFR 983.51.

- OCHA may select, without issuing an RFP, proposals that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that was subject to a competition in accordance with the requirements of the applicable program where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competition did not involve any consideration that the project would receive PBV assistance.

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

OCHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by OCHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of OCHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

OCHA Request for Proposals for Rehabilitated and Newly Constructed Units

OCHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in newspapers of general circulation (to be identified at the time of publication).

In addition, OCHA will post the RFP and proposal submission and rating and ranking procedures on its website. The advertisement will remain on OCHA's website until such time as the application period is closed.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements and that the Federal Labor Standard provisions may be applicable for new and rehabilitation projects.

OCHA will publish its advertisement in the same newspaper used for publication of the RFP for at least one day per week for three consecutive weeks. The advertisement will specify the number of units OCHA estimates that it will be able to assist under the funding OCHA is making available. Proposals will be due in OCHA's office by close of business 30 calendar days from the date of the last publication. OCHA will date and time stamp all applications upon receipt. Applications received after the published deadline date will not be accepted for consideration under the RFP process. Postmarks are not acceptable.

In order for the proposal to be considered, the owner must submit the proposal to OCHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP and be in compliance with all HUD program requirements. Incomplete proposals will not be reviewed. OCHA reserves the right to reject applications at any time for misinformation, errors, or omissions of any kind.

OCHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers OCHA's goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

In order to promote partially assisted projects, projects where less than 25 percent of the units will be assisted will be rated higher than projects where 25 percent or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, OCHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

PHA Requests for Proposals for Existing Housing Units

OCHA will advertise its request for proposals (RFP) for existing housing in newspapers of general circulation (to be identified at the time of publication).

In addition, OCHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

OCHA will periodically publish its advertisement in the same newspaper used for publication of the RFP for at least one day per week for three consecutive weeks. The advertisement will specify the number of units OCHA estimates that it will be able to assist under the funding OCHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers OCHA's goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

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

OCHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits (if the earlier competition did not involve any consideration that the project would receive PBV assistance) on an ongoing basis.

OCHA may periodically advertise that it is accepting proposals, in newspapers of general circulation (to be identified at the time of publication).

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements and that the Federal Labor Standard provisions may be applicable for new and rehabilitation projects.

In addition to, or in place of advertising, OCHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. OCHA will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers OCHA's goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community.

17-II.C. NON-COMPETITIVE PROJECT SELECTION [24 CFR 983.51(c)]

OCHA may select units without a competitive selection process in certain circumstances described in 24 CFR 983.51(c) and FR Notice 8/13/24. Prior to selecting units based on the below criteria, OCHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan. If this requirement is not met, OCHA may not select units non-competitively.

OCHA may select units for PBV assistance without following a competitive process in the following circumstances:

- OCHA may select existing, newly constructed, or rehabilitated public housing projects where OCHA has an ownership interest or over which OCHA has control, when OCHA is engaged in an initiative to improve, develop, or replace a public housing property or site.

- The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory through any available legal removal tool within five years of the project selection date.

- OCHA may select for future PBV assistance a project currently under the public housing program, or a project that is replacing the public housing project, in which OCHA has no ownership interest, or which OCHA has no control over, provided:
  - The public housing project is either still in the public housing inventory or had been removed from the public housing inventory through any available legal removal tool within five years of the project selection date;
  - The PHA that owned or owns the public housing project does not administer the HCV program;
  - The project selected for PBV assistance was specifically identified as replacement housing for the impacted public housing residents as part of the public housing demolition/disposition application, voluntary conversion application, or any other application process submitted to and approved by HUD to remove the public housing project from the public housing inventory; and
  - With respect to replacement housing, OCHA does not have to replace the housing on the same site as the original public housing, but the number of contract units in the replacement project may not exceed the number of units in the original public housing project by more than a de minimis amount for this exception to apply.
- OCHA may select a project consisting of OCHA-owned units as defined at 24 CFR 982.4.
  - The units must continue to meet the definition of OCHA-owned for the initial two years of the HAP contract unless there is a transfer of ownership approved by HUD.
- OCHA may select a project that underwent an eligibility event within five years of the project selection date, in which a family (or families) qualifies for enhanced voucher assistance and provided informed consent to relinquish its enhanced voucher for PBV assistance.
- OCHA may select one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility [FR Notice 8/13/24].
  - The method of project selection must comply with all other requirements under 24 CFR 983.51, including that OCHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan and to ensure any project selection is consistent with OCHA's administrative plan.

OCHA may noncompetitively attach PBVs to projects as described above. If OCHA does intend to select units noncompetitively, OCHA will first notify the public through OCHA's 5-Year Plan process and will include the procedures for submission and selection to address under what circumstances OCHA will use this method.

17-II.D. PROJECT OR PROPOSAL SELECTION [24 CFR 983.51(f) and 24 CFR 983.153(c)(3)]

Inspections Required Prior to Project or Proposal Selection [24 CFR 983.51(e)]

OCHA must examine the proposed site before the proposal or project selection date to determine whether the site complies with the site selection standards outlined in 24 CFR 983.55.

OCHA may execute a HAP contract for existing housing if:

- All proposed contract units in the project fully or substantially comply with housing quality standards on the proposal or project selection date, which OCHA must determine via inspection;
- The project meets the environmental review requirements at 24 CFR 983.56, if applicable; and
- The project meets the initial inspection requirements in accordance with 24 CFR 983.103(c).

OCHA Written Notice of Proposal or Project Selection [24 CFR 983.51(f) and (h) and 24 CFR 983.153(c)(3)]

Regardless of the method of selection, OCHA is required to provide written notice of proposal or project selection, which must include:

- If the project contains OCHA-owned units, OCHA must provide the written notice of proposal or project selection to the responsible OCHA official, and that official must certify in writing that OCHA accepts the terms and requirements stated in the notice. OCHA must make documentation available for public inspection regarding the basis for OCHA selection of a PBV proposal.

- When an environmental review is required, if the review has not been conducted prior to the project or proposal selection date, OCHA's written notice that the selection is subject to completion of a favorable environmental review and that the project or proposal may be rejected based on the results of the environmental review.
- For newly constructed housing and rehabilitated housing in projects to which labor standards apply, OCHA's written notice to the party that submitted the selected proposal or board resolution approving project-basing of assistance at the specific project must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination [24 CFR 983.153(c)(3)].

In addition to the requirements above, for selection of proposals through competitive methods, OCHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The proposal selection date is the date on which OCHA provides written notice to the party that submitted the selected proposal. The written notice of proposal selection must require the owner or party that submitted the selected proposal to provide a written response to OCHA accepting the terms and requirements stated in the notice. OCHA must make documentation available for public inspection regarding the basis for OCHA selection of a PBV proposal.

If the project does not contain OCHA-owned units, OCHA will notify the selected owner in writing of the owner's selection for the PBV program within 10 business days of OCHA making the selection. OCHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

If the project contains OCHA-owned units, within 10 business days of OCHA making the selection, OCHA will provide the written notice of proposal selection to the responsible OCHA official, and that official must certify in writing that OCHA accepts the terms and requirements stated in the notice within 10 business days of receiving OCHA's written notice.

When an environmental review is required, if the review has not been conducted prior to the proposal selection date, OCHA's written notice of proposal selection will state that the selection is subject to completion of a favorable environmental review and that the proposal may be rejected based on the results of the environmental review.

For any project to which labor standards apply, OCHA's written notice will state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

OCHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers OCHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. OCHA will also post the notice of owner selection on its website.

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

OCHA will make these documents available for review at OCHA during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

The owner must submit a written response to OCHA accepting the terms and requirements stated in the notice within 10 business days of OCHA's written notification to the owner.

In addition to the requirements above, for projects selected under an exception to the competitive process under 24 CFR 983.51(c), OCHA must give prompt written notice of project selection to the owner following OCHA board's resolution approving the project-basing of assistance at the specific project. The project selection date is the date of OCHA's board resolution approving the project-basing of assistance at the specific project. The written notice of project selection must require the owner of the project selected to provide a written response to OCHA accepting the terms and requirements stated in the notice.

17-II.E. HOUSING TYPE [24 CFR 983.52]

OCHA must decide what type of housing, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. OCHA choice of housing type must be reflected in its solicitation for proposals. With certain exceptions, OCHA may not execute a HAP contract for units:

- On which construction or rehabilitation commenced after the date of proposal submission (for housing subject to competitive selection) or the date of OCHA's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection); and

- Prior to the effective date of an AHAP.

However, HUD makes an exception in the following circumstances:

- OCHA has exercised its discretion under 24 CFR 983.154(f) to undertake development activity without an AHAP; or
- OCHA has executed an AHAP after construction or rehabilitation that complied with applicable requirements of 24 CFR 983.153 has commenced; or
- OCHA will undertake development activity after execution of the HAP contract as authorized under 24 CFR 983.157.

At HUD's sole discretion, HUD may approve OCHA's request for additional exceptions to this prohibition.

17-II.F. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Units [24 CFR 983.52]

A HAP contract must not be effective and no PBV assistance may be provided for any of the following: shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; and transitional housing. Manufactured homes are ineligible only if the manufactured home is not permanently affixed to a permanent foundation or the owner does not own fee title to the real property (land) on which the manufactured home is located.

In addition, OCHA may not attach or pay PBV assistance for a unit occupied by an owner of the housing. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program.

Before OCHA places a specific unit under a HAP contract, OCHA must determine whether the unit is occupied and, if occupied, whether the unit's occupants are eligible for assistance in accordance with 24 CFR 982.201. For a family to be eligible for assistance in the specific unit, the unit must be appropriate for the size of the family under OCHA's subsidy standards and the total tenant payment (TTP) for the family must be less than the gross rent for the unit. OCHA must not enter into a HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

However, unlike in the regular PBV program, OCHA may opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to VASH families if the PBV project is either on the grounds of a VA facility or there are VASH supportive services provided on-site at the project. See Chapter 19 for more information.

Subsidized Housing [24 CFR 983.53]

A HAP contract must not be effective and no PBV assistance may be provided in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, OCHA may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance; or

- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or OCHA in accordance with HUD requirements. For this purpose, housing subsidy does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

17-II.G. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.11, 24 CFR 983.153(b), 24 CFR 4.13, Notice PIH 2013-11, and FR Notice 3/13/23]

Development Activity Before HAP Contract [24 CFR 983.153(b)]

As part of the PBV project or proposal selection process, the project owner must disclose information regarding all HUD and/or other federal, state, or local governmental assistance committed to the project, as well as other governmental assistance, using Form HUD-2880 (even if no other governmental assistance is received or anticipated) [FR Notice 3/3/23].

HUD requires a subsidy layering review (SLR) to be conducted when new construction or rehabilitation housing will include PBVs in combination with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits. The SLR must occur before OCHA attaches PBV assistance to a project. This means when an SLR is required, OCHA may not execute an AHAP or HAP contract until HUD or a HUD-approved housing credit agency (HCA) has conducted the required subsidy layering review and determined the project compliance with 24 CFR 4.13 and other related regulation requirements with regards to attaching PBV assistance. Subsidy layering requirements also do not apply to existing housing when PBV is the only governmental assistance.

Conducting the SLR [FR Notice 3/3/23 and Notice PIH 2023-15]

OCHAs request an SLR through their local HUD Field Office or, if eligible, through a participating HCA. OCHA is responsible for collecting all required documentation for the SLR from the project owner. Appendix A of FR Notice 3/23/23 contains a list of all required documentation. The owner must inform OCHA if any information changes during or after the application process. If new information becomes available after initial submission, OCHA is responsible for submitting updated information to HUD or the HCA.

If HUD completes the SLR and determines the PBV assistance complies with all requirements, HUD will notify OCHA in writing. If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify OCHA. OCHA may proceed to execute an AHAP at that time if the environmental approval is received.

Additional Assistance after HAP Contract [24 CFR 983.11(d)]

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements, unless the owner discloses additional assistance in accordance with HUD requirements [24 CFR 983.11(d)].

For newly constructed or rehabilitated housing under a HAP contract, the owner must disclose to OCHA information regarding any additional related assistance from the federal government, a state, or a unit of general local government, or any agency or instrumentality thereof. Related assistance includes but is not limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance. If the additional related assistance meets certain threshold and other requirements established by HUD, a subsidy layering review may be required to determine if it would result in excess public assistance to the project. OCHA must adjust the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

17-II.H. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and Site and Neighborhood Standards [24 CFR 983.55(b)]

OCHA may not select a project or proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP or HAP contract for units on the site, unless OCHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with OCHA's Plan under 24 CFR 903 and OCHA's administrative plan.

In addition, prior to selecting a proposal, OCHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the housing quality standards and neighborhood standards at 24 CFR 5.703.

It is OCHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal OCHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, OCHA will grant exceptions to the 20 percent standard where OCHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

OCHA will also consider whether the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d(4)) and HUD's implementing regulations at 24 CFR Part 1; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-3629) and HUD's implementing regulations at 24 CFR Parts 100 through 199; Executive Order 11063 (27 FR 11527; 3 CFR, 1959-1963 Comp., p. 652), and HUD's implementing regulations at 24 CFR Part 107.

The site must also be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12131-12134) and implementing regulations (28 CFR Part 35), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's implementing regulations at 24 CFR Part 8, including meeting the Section 504 site selection requirements described in 24 CFR 8.4(b)(5).

OCHA will also consider whether the site and neighborhood are reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants. The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, that could affect the health or safety of the project occupants, such as dangerous walks or steps; contamination; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.55(d)]

OCHA may not enter into an AHAP or HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.55(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless OCHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.I. ENVIRONMENTAL REVIEW [24 CFR 983.56]

OCHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58, other than where exceptions are provided in the PBV regulations.

For projects or proposals that were selected in accordance with the site selection standards at 24 CFR 983.55 in effect on or after June 6, 2024, no environmental review is required to be undertaken before entering into a HAP contract for existing housing, except to the extent a Federal environmental review is required by law or regulation relating to funding other than PBV.

When an environmental review is required, the responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the review has not been conducted prior to the proposal or project selection date, then OCHA's written notice of proposal or project selection must state that the selection is subject to completion of a favorable environmental review and that the project may be rejected based on the results of the environmental review. OCHA may not enter into an AHAP or HAP contract until the responsible entity has complied with the environmental review requirements.

OCHA may not enter into an AHAP or a HAP contract with an owner, and OCHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until one of the following occurs:

- The responsible entity has determined that the activities to be undertaken are exempt under 24 CFR 85.34(a) or categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b);
- The responsible entity has completed the environmental review procedures required by 24 CFR Part 58, and HUD has approved OCHA's Request for Release of Funds and Certification (form HUD-7015.15)
    - HUD approves the Request for Release of Funds and Certification by issuing a Letter to Proceed or form HUD-7015.16, thereby authorizing OCHA to execute an AHAP or HAP contract, as applicable; or
- HUD has performed an environmental review under 24 CFR Part 50 and has notified OCHA in writing of environmental clearance.

OCHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. OCHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

Housing quality standards for the tenant-based program, including those for special housing types, generally apply to the PBV program. Housing quality standards requirements for shared housing, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The owner is required to maintain and operate the contract units and premises in accordance with housing quality standards, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with OCHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

OCHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the AHAP and the HAP contract. These requirements must be in addition to, not in place of, compliance with housing quality standards. OCHA must specify the conditions under which it will require additional housing quality requirements in the administrative plan.

OCHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. OCHA will specify any special design standards or additional requirements in the invitation for PBV proposals (if applicable), the AHAP, and the HAP contract.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [24 CFR 983.102]

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. OCHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS [24 CFR 983.103]

OCHA must inspect contract units whenever needed to determine that the contract units comply with housing quality standards and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. OCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

Pre-selection Inspection [24 CFR 983.103(a)]

If the units to be assisted already exist, OCHA must inspect all the units before the proposal selection date and must determine if the project meets the definition of existing housing. If the project is existing housing, OCHA may not execute the HAP contract until the units meet the initial inspection requirements in accordance with 24 CFR 983.103(c).

Initial Inspection: Newly Constructed and Rehabilitated Projects That Underwent Substantial Improvement [24 CFR 983.103(b)]

Following completion of work pursuant to 24 CFR 983.155, OCHA must complete the following inspections, as applicable:

- For rehabilitated housing that is developed prior to the HAP contract term or newly constructed housing, OCHA must inspect each proposed newly constructed and rehabilitated PBV unit before execution of the HAP contract. Each proposed PBV unit must fully comply with housing quality standards prior to HAP contract execution.
- For rehabilitated housing that will undergo development activity after HAP contract execution, OCHA must conduct unit inspections in accordance with the requirements of 24 CFR 983.157.
- For units that underwent substantial improvement pursuant to 24 CFR 983.207(d) or 983.212, inspect each unit. Each PBV unit that underwent substantial improvement must fully comply with housing quality standards prior to OCHA adding the unit to the HAP contract, returning the unit temporarily removed to the HAP contract, allowing re-occupancy of the unit, and resuming housing assistance payments, as applicable.

Initial Inspection: Existing Housing [24 CFR 983.103(c)]

OCHA must inspect and determine that all of the proposed PBV units fully comply with housing quality standards before entering into the HAP contract, unless OCHA has adopted a policy to enter into a HAP contract for units that fail the initial inspection as a result of only non-life-threatening conditions (NLT option), or if the unit passed an alternative inspection, or both. OCHA must establish in its administrative plan the amount of time that may elapse between the initial inspection of existing housing and execution of a HAP contract for that unit.

OCHA will not provide assistance on behalf of the family until the unit fully complies with housing quality standards.

OCHA will not rely on alternative inspections for initial inspections.

The HAP contract for existing housing must be executed within 180 calendar days of the initial inspection.

Turnover Inspections [24 CFR 983.103(d)]

Before providing assistance to a new family in a contract unit, OCHA must inspect the unit. OCHA may not provide assistance on behalf of the family until the unit fully complies with housing quality standards.

Periodic Inspections [24 CFR 983.103(e); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract (or at least triennially for small rural PHAs), OCHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with housing quality standards. Turnover inspections are not counted toward meeting this inspection requirement.

OCHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with housing quality standards.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, OCHA must reinspect 100 percent of the contract units in the building.

This requirement also applies in the case of a HAP contract that is undergoing development activity after HAP contract execution; however, if the periodic inspection occurs during the period of development activity covered by the rider and fewer than 20 percent of contract units in each building are designated in the rider as available for occupancy, OCHA is only required to inspect the units in that building that are designated as available for occupancy.

Alternative Inspections for Periodic Inspections [24 CFR 983.103(g); Notice PIH 2016-05]

In the case of mixed finance properties that are subject to alternative inspections, OCHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

OCHA will not rely on alternative inspection standards.

Interim Inspections [24 CFR 983.103(f)]

If a participant or government official notifies OCHA of a potential deficiency in a PBV unit or development, the following applies:

- If the reported deficiency is life-threatening, OCHA must, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of OCHA notification.
- If the reported deficiency is non-life-threatening, OCHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of notification from OCHA or within any OCHA-approved extension.

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

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

Follow Up Inspections [24 CFR 983103(f)(2)]

OCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected a housing quality standards violation and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of housing quality standards.

Supervisory Quality Control Inspections [24 CFR 983.103(f)(3)]

In conducting OCHA supervisory quality control inspections, OCHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(g)]

In the case of OCHA-owned units, the inspections must be performed by an independent entity designated by OCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to OCHA. OCHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by OCHA.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151 and 983.152]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance. Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT (AHAP) [24 CFR 983.154]

Except where OCHA decides not to use an AHAP or chooses to execute an AHAP after construction or rehabilitation has commenced, OCHA and owner must enter into an AHAP that will govern development activity. In the AHAP, the owner agrees to develop the PBV contract units to comply with housing quality standards, and OCHA agrees that upon timely completion of development in accordance with the terms of the AHAP, OCHA will enter into a HAP contract with the owner for the contract units. The AHAP must cover a single project, except one AHAP may cover multiple projects that each consist of a single-family building.

The effective date of the AHAP must be on or after the date the AHAP is executed. The AHAP must be executed and effective prior to the commencement of development activity as described in 24 CFR 983.154(d), except where OCHA decides not to use an AHAP or chooses to execute an AHAP after construction or rehabilitation has commenced. The AHAP must be in the form required by HUD.

OCHA and owner may agree to amend the contents of the AHAP by executing an addendum, so long as such amendments are consistent with all PBV requirements. OCHA and owner may only execute an addendum affecting a unit prior to OCHA accepting the completed unit.

Development activity must not commence after the date of proposal submission (for housing subject to competitive selection) or the date of OCHA's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection) and before the effective date of the AHAP, except where OCHA decides not to use an AHAP or chooses to execute an AHAP after construction or rehabilitation has commenced. In the case of new construction, development activity begins with excavation or site preparation (including clearing of the land). Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

OCHA Discretion Not to Use an AHAP [24 CFR 983.154(f)]

OCHA may decide not to use an AHAP or may choose to execute an AHAP after construction or rehabilitation that complied with applicable requirements of 24 CFR 983.153 has commenced. To do so, OCHA must explain the circumstances (if any) under which OCHA will enter into a PBV HAP contract for newly constructed or rehabilitated housing without first entering into an AHAP and under which OCHA will enter into an AHAP after construction or rehabilitation has commenced.

OCHA will not exercise its discretion to not use an AHAP or to execute an AHAP after construction or rehabilitation.

Content of the AHAP [24 CFR 983.154(e)]

At a minimum, the AHAP must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (square footage) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the AHAP. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the AHAP;
- A description of any required work item if the requirement to install broadband infrastructure applies;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the AHAP.
    - For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans.
    - For new construction units, the description must include the working drawings and specifications.
- The deadline for completion of the work to be performed under the AHAP; and
- Any additional requirements for quality, architecture, or design over and above housing quality standards. OCHA must specify the conditions under which it will require additional housing quality requirements in the administrative plan.

Execution of the AHAP [FR Notice 11/24/08]

The AHAP must be executed promptly after OCHA notice of proposal selection to the selected owner.

OCHA will enter into the AHAP with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. DEVELOPMENT REQUIREMENTS

Labor Standards [24 CFR 983.153(c)]

If an AHAP covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing.

Further, these Davis-Bacon requirements apply to existing PBV units when the nature of any work to be performed either before the execution of the HAP contract or within 18-months after execution constitutes project development. Any development initiated on existing units within 18-months after the effective date of the HAP contract on projects with nine or more contract units triggers Davis-Bacon requirements.

When OCHA exercises its discretion at 24 CFR 983.154(f) or 983.157(a) to allow the owner to conduct some or all development activity while the proposed PBV units are not under an AHAP or HAP contract, the applicable parties must comply with the labor standards outlined above from the date of proposal submission (for housing subject to competitive selection) or from the date of OCHA's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection).

The AHAP will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. The addendum to the HAP contract, Form HUD-5679, also includes the required labor standards clauses.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. OCHA must monitor compliance with labor standards.

For any project to which labor standards apply, OCHA's written notice to the party that submitted the selected proposal or board resolution approving project-basing of assistance at the specific project must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

Development activity is also subject to the federal equal employment opportunity requirements of Executive Orders 11246 as amended (3 CFR, 1964-1965 Comp., p. 339), 11625 (3 CFR, 1971-1975 Comp., p. 616), 12432 (3 CFR, 1983 Comp., p. 198), and 12138 (3 CFR, 1977 Comp., p. 393).

Accessibility [24 CFR 983.153(e)]

As applicable, the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205; the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, including 8.22 and 8.23; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131-12134) and implementing regulations at 28 CFR Part 35, including 24 CFR 35.150 and 35.151, apply to development activity.

A description of any required work item resulting from these requirements must be included in the AHAP (if applicable) or HAP contract (if applicable).

Broadband Infrastructure [24 CFR 983.153(f)]

Any development activity that constitutes substantial rehabilitation (as defined by 24 CFR 5.100) of a building with more than four rental units and where the proposal or project selection date or the start of the development activity while under a HAP contract is after January 19, 2017, must include installation of broadband infrastructure, as defined in 24 CFR 5.100, except where the owner determines and documents the determination that:

- The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

A description of any required work item resulting from this requirement must be included in the AHAP (if applicable) or HAP contract (if applicable).

Owner Disclosure [24 CFR 983.153(g)]

The AHAP and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the AHAP, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF WORK [24 CFR 983.155]

Evidence of Completion [24 CFR 983.155]

The owner must submit evidence and certify to OCHA, in the form and manner required by OCHA's administrative plan, that development activity or substantial improvement has been completed, and that all such work was completed in accordance with the applicable requirements. OCHA must review the evidence to determine whether the development activity or substantial improvement was completed in accordance with the applicable requirements.

In the case of OCHA-owned units, the owner must submit evidence and certify to the independent entity, in the form and manner required by OCHA's administrative plan, that development activity or substantial improvement has been completed, and that all such work was completed in accordance with the applicable requirements. The independent entity must review the evidence to determine whether the development activity or substantial improvement was completed in accordance with the applicable requirements.

At a minimum, the owner must submit the following evidence of completion to OCHA or independent entity, as applicable:

Owner certification that the work has been completed in accordance with housing quality standards and all requirements of the AHAP; and

Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the discretion of OCHA, the AHAP may specify additional documentation that must be submitted by the owner as evidence of housing completion. For example, such documentation may include:

A certificate of occupancy or other evidence that the units comply with local requirements (such as code and zoning requirements); and

An architect's certification that the housing complies with:

HUD housing quality standards;

State, local, or other building codes;

Zoning;

The rehabilitation work write-up (for rehabilitated housing) or the work description (for newly constructed housing); or

Any additional design or quality requirements pursuant to the AHAP.

OCHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. OCHA will specify any additional documentation requirements in the AHAP.

PHA Acceptance of Completed Units [24 CFR 983.156(a) and (b)]

After OCHA has received all required evidence of completion and the owner's certification that all work was completed in accordance with the applicable requirements, OCHA must inspect to determine if the housing has been completed in accordance with the AHAP, including compliance with housing quality standards and any additional design, architecture, or quality requirements imposed under the AHAP. For OCHA-owned units, the independent entity must perform the inspection. OCHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the AHAP, OCHA must not enter into the HAP contract.

If OCHA determines the work has been completed in accordance with the AHAP and all applicable requirements and that the owner has submitted all required evidence of completion, OCHA must:

- For units which will not undergo development activity after HAP contract execution, submit the HAP contract for execution by the owner and then execute the HAP contract;
- For rehabilitated housing projects for which development activity has commenced prior to HAP contract execution under 24 CFR 983.157(b), submit the HAP contract for execution by the owner and then execute the HAP contract;
- For development activity after the HAP contract execution, amend the HAP contract rider to designate the completed units as available for occupancy, or if the owner has completed all development activity as provided in the rider, amend the HAP contract to delete the rider; or
- For units that underwent substantial improvement in order to be added to the HAP contract, amend the HAP contract to add the units to the HAP contract.

Staged Completion of Contract Units [24 CFR 983.156(c)]

Contract units that will not undergo development activity after HAP contract execution may be placed under the HAP contract in stages commencing on different dates. In such a case, OCHA must determine separately for each stage whether the development activity was completed in accordance with the applicable requirements and that the units meet housing quality standards and any additional design, architecture, or quality requirements specified by OCHA. If the first stage is determined compliant, then OCHA must submit the HAP contract for execution by the owner and must execute the HAP contract for PBV rehabilitated housing and newly constructed housing projects. As each subsequent stage is determined compliant, OCHA and owner must amend the HAP contract to add the units to the HAP contract.

17-V.A. OVERVIEW [24 CFR 983.202(a)]

OCHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families leasing PBV units during the term of the HAP contract. With some exceptions, a HAP contract must cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. However, OCHA and owner may agree to place multiple projects, each consisting of a single-family building, under one HAP contract. The HAP contract must be in the form required by HUD.

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and ZIP code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 and the Americans with Disabilities Act, as applicable;
- The HAP contract term;
- The number of units under the increased program cap or excepted from the project cap that will be set aside for occupancy by families who qualify for such a unit;
- The initial rent to owner for the first 12 months of the HAP contract term; and
- Whether OCHA has elected not to reduce rents below the initial rent to owner.

Execution of the HAP Contract [24 CFR 983.204]

Before execution of the HAP contract, OCHA must determine that applicable pre-HAP contract housing quality standards requirements have been met in accordance with 24 CFR 983.103(b) or (c) as applicable. OCHA may not execute the HAP contract for any contract unit that does not meet the pre-HAP contract housing quality standards requirements. For existing housing, the HAP contract must be executed promptly after OCHA selects the owner proposal and OCHA determines that applicable pre-HAP contract housing quality standards requirements have been met. For newly constructed or rehabilitated housing that will not undergo development activity after HAP contract execution, the HAP contract must be executed promptly after OCHA has inspected the completed units and has determined that the units have been completed in accordance with the AHAP, and the owner furnishes all required evidence of completion. For rehabilitated housing that will undergo development activity after HAP contract execution, the HAP contract must be executed and effective promptly after all proposed PBV units are added to the contract at this time, including units that do not comply with HQS or that will undergo development activity.

For existing housing, the HAP contract will be executed within 10 business days of OCHA determining that all units pass inspection.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of OCHA determining that the units have been completed in accordance with the AHAP, all units meet housing quality standards, and the owner has submitted all required evidence of completion.

Effective Date of the HAP Contract [24 CFR 983.204(d)]

The effective date of the HAP contract must be on or after the date the HAP contract is executed. The HAP contract must be effective before the effective date of the first lease covering a contract unit occupied by an assisted family, and OCHA may not pay any housing assistance payment to the owner until the HAP contract is effective.

Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

OCHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

OCHA and owner may agree at any time before expiration of the HAP contract to execute one or more extensions of the HAP contract term, but the following conditions apply:

- Each extension executed must have a term that does not exceed 20 years;
- At no time may the total remaining term of the HAP contract, with extensions, exceed 40 years;
- Before agreeing to an extension, OCHA must determine that the extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities; and
- Each extension must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

When determining whether or not to extend an expiring PBV contract, OCHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and leases;

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

17-V.C. TERMINATION OF THE HAP CONTRACT

Termination by Agreement of PHA and Owner [24 CFR 983.206(e)]

OCHA and owner may agree to terminate the HAP contract prior to the end of the term. The owner is required to give notice in accordance 24 CFR 983.206(a) prior to termination, and families must be provided tenant-based assistance and may elect to remain in the project.

Termination by OCHA [24 CFR 983.205(c)]

The HAP contract must provide that OCHA may terminate the contract for insufficient funding, subject to HUD requirements. OCHA has the option of terminating a PBV HAP contract based on "insufficient funding" only if:

- OCHA determines in accordance with HUD requirements that it lacks sufficient HAP funding (including HAP reserves) to continue to make housing assistance payments for all voucher units currently under a HAP contract;
- OCHA has taken cost-saving measures specified by HUD;
- OCHA notifies HUD of its determination and provides the information required by HUD; and
- HUD determines that OCHA lacks sufficient funding and notifies OCHA it may terminate HAP contracts as a result.

If OCHA determines that the owner has breached the HAP contract, OCHA may exercise any of its rights or remedies under the HAP contract, including but not limited to contract termination. The provisions of 24 CFR 983.208 apply for HAP contract breaches involving failure to comply with housing quality standards. For any other contract termination due to breach, 24 CFR 983.206(b) on provision of tenant-based assistance applies.

Non-extension by Owner – Notice Requirements [24 CFR 983.206(a)]

Not less than one year before the HAP contract terminates, the owner must notify OCHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. The term termination for applicability of this notice requirement means the expiration of the HAP contract, termination of the HAP contract by agreement of OCHA and owner, or an owner's refusal to renew the HAP contract.

If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner and OCHA may agree to renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Termination by Owner – Reduction Below Initial Contract Rent [24 CFR 983.206(d)]

If the amount of the rent to owner for any contract unit, as adjusted, is reduced below the amount of the initial rent to owner, the owner may terminate the HAP contract, upon notice to OCHA no fewer than 90 calendar days prior to the planned termination, and families must be provided tenant-based assistance and may elect to remain in the project. The owner is not required to provide the one-year notice of the termination of the HAP contract to the family and OCHA when terminating the HAP contract due to rent reduction below the initial rent to owner.

Termination or Expiration without Extensions – Required Provision of Tenant-Based Assistance [24 CFR 983.206(b)]

Unless a termination or expiration without extension occurs due to a determination of insufficient funding or other extraordinary circumstances determined by HUD, upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher no fewer than 60 calendar days prior to the planned termination or expiration of the PBV HAP contract. However, OCHA is not required to issue the family a voucher if OCHA has offered the family an alternative housing option (e.g., an assisted unit in another PBV project), and the family chooses to accept the alternative housing option instead of the voucher.

Tenant-based assistance would not begin until the owner's required notice period ends. OCHA must provide the family with a voucher and the family must also be given the option by OCHA and owner to remain in their unit with HCV tenant-based assistance subject to the following:

- The unit must comply with housing quality standards;
- OCHA must determine or have determined that the rent for the unit is reasonable;
- The family must pay its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard (the limitation at 24 CFR 982.508 regarding maximum family share at initial occupancy does not apply); and
- The owner may not refuse to initially lease a unit in the project to a family that elects to use their tenant-based assistance to remain in the same project, except where the owner will use the unit for a purpose other than a residential rental unit. The owner may not later terminate the tenancy of such a family, except for the following grounds:
    - The grounds in 24 CFR 982.310, except paragraphs 24 CFR 982.310(d)(1)(iii) and (iv);
    - The owner's desire to use the unit for a purpose other than a residential rental unit; and
    - The owner's desire to renovate the unit, subject to the following:
        - The owner must consider whether a reasonable alternative to terminating the lease exists. If a reasonable alternative exists, the owner must not terminate the lease. The owner must consider the following alternatives:
            - Completing renovations without the family vacating the unit, if the renovations can be completed in a manner that does not result in life-threatening conditions, does not result in deficiencies under housing quality standards that are not corrected within 30 days, and is mutually agreeable to the owner and the family; and
            - Temporarily relocating the family to complete the renovations, if the relocation and renovations can be completed within a single calendar month (beginning no sooner than the first day of a month and ending no later than the last day of the same month) and the family can be relocated to a location and in a manner mutually agreeable to the owner and the family;
- If the owner terminates the lease for renovation, the owner must make every reasonable effort to make available and lease the family another unit within the project that meets the tenant-based voucher program requirements; and
- If no other unit within the project is available for the family to lease during the renovation period or the family chooses to move from the project during the renovation period, the owner must make every reasonable effort to make available and lease the family a unit within the project upon completion of renovations.

The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to OCHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

The voucher issued to the family is the voucher attached to its unit under the expiring or terminating PBV contract. Consequently, if the family vacates the contract unit following the issuance of the tenant-based voucher and prior to the contract termination or expiration date, OCHA must remove the unit from the PBV HAP contract at the time the family vacates the unit. The PBV HAP contract must provide that, if the units continue to be used for rental housing upon termination or expiration without extension of a PBV HAP contract, each assisted family may elect to use its tenant-based assistance to remain in the same project.

Remedies for Housing Quality Standards Deficiencies [24 CFR 983.208]

The following is applicable to HAP contracts executed or renewed June 5, 2024, or earlier:

OCHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with housing quality standards. If OCHA determines that a contract does not comply with housing quality standards, OCHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

OCHA will abate and terminate PBV HAP contracts for noncompliance with housing quality standards in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

The following is applicable to HAP contracts executed or renewed June 6, 2024, or later.

Enforcement of Housing Quality Standards [24 CFR 983.208(b)]

OCHA must vigorously enforce the owner's obligation to maintain contract units in accordance with housing quality standards. If the owner fails to maintain the dwelling unit in accordance with housing quality standards, OCHA must take enforcement action. The unit is in noncompliance with housing quality standards if:

- OCHA or other inspector authorized by the state or local government determines the unit has housing quality standards deficiencies based upon an inspection;
- The agency or inspector notifies the owner in writing of the unit housing quality standards deficiencies; and
- The deficiencies are not remedied within the following timeframes:
    - For life-threatening deficiencies, the owner must correct the deficiency within 24 hours of notification;
    - For other deficiencies, the owner must correct the deficiency within 30 calendar days of notification (or any reasonable OCHA-approved extension).

In the case of a housing quality standards deficiency that OCHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control, other than any damage resulting from ordinary use, OCHA may waive the owner's responsibility to remedy the violation. Housing assistance payments to the owner may not be withheld or abated if the owner responsibility has been waived. However, OCHA may terminate assistance to a family because of a housing quality standards breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control, which may result in removing the unit from the HAP contract.

OCHA will waive the owner's responsibility for housing quality standards deficiencies that have been determined to have been caused by the tenant, any member of the household, or any guest or other person under the tenant's control, to the extent the tenant can be held responsible for ensuring that the deficiencies are corrected: the tenant must take all necessary steps permissible under the lease and state and local law to remedy the deficiency. This may include paying the owner for the cost of the necessary repairs in accordance with the lease.

In the case of a housing quality standards deficiency that is caused by fire, natural disaster, or similar extraordinary circumstances, OCHA may permit the owner to undertake substantial improvement in accordance with 24 CFR 983.212. However, so long as the contract unit with deficiencies is occupied, OCHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

In the case of a project that is undergoing development activity after HAP contract execution, the remedies of 24 CFR 983.208(d) do not apply to units designated as unavailable for occupancy during the period of development activity in accordance with the rider. However, in the case of any contract unit with deficiencies that is occupied, OCHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

Family Obligation [24 CFR 983.208(c)]

The family may be held responsible for a breach of housing quality standards caused by any of the following:

- Tenant-paid utilities not in service;
- Failure to provide or maintain appliances owned by the family; and
- Damage to the dwelling unit or premises caused by a household member or guest beyond ordinary wear and tear.

Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.

If OCHA has waived the owner's responsibility to remedy the violation, the following applies:

- If the housing quality standards breach caused by the family is life-threatening, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 24 hours of notification.
- For other family-caused deficiencies, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 30 calendar days of notification (or any OCHA-approved extension).

If the family has caused a breach of the housing quality standards, OCHA must take prompt and vigorous action to enforce the family obligations. OCHA may terminate assistance for the family in accordance with 24 CFR 982.552.

OCHA Remedies [24 CFR 983.208(d)]

The remedies listed below apply when housing quality standards deficiencies are identified as the result of an inspection other than a pre-selection, initial, or turnover inspection. OCHA must identify in its administrative plan the conditions under which it will withhold HAP and the conditions under which it will abate HAP or terminate the HAP contract for units other than the unit with housing quality standards deficiencies.

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

OCHA will not withhold assistance payments upon notification to the owner of the deficiencies.

When life-threatening conditions are identified, OCHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of OCHA's notice.

When failures that are not life-threatening are identified, OCHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

If the owner is responsible for correcting the deficiency, 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 OCHA-approved extension), the owner's HAP will be abated.

Likewise, if the family is responsible for correcting the deficiency, the notice will inform the family that if corrections are not made within the specified time frame (or any OCHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).

HAP Withholding [24 CFR 983.208(d)(1)

OCHA may withhold assistance payments for units that have housing quality standards deficiencies once OCHA has notified the owner in writing of the deficiencies. OCHA's administrative plan must identify the conditions under which OCHA will withhold HAP. In this case, if the unit is brought into compliance during the applicable cure period, OCHA resumes assistance payments and provides assistance payments to cover the time period for which the payments were withheld.

OCHA will not withhold assistance payments upon notification to the owner of the deficiencies.

HAP Abatement [24 CFR 983.208(d)(2)]

OCHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period. OCHA may choose to abate payments for all units covered by the HAP contract due to a contract unit's noncompliance with the housing quality standards, even if some of the contract units continue to meet housing quality standards. In this case, OCHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), OCHA will either terminate the HAP contract or remove the unit with deficiencies from the HAP contract, and any family residing in a unit that does not comply with housing quality standards will have to move if the family wishes to receive continued assistance.

The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance.

PHA Policy

OCHA will make all HAP abatements effective the first of the month following the expiration of the PHA-specified correction period (including any extension).

OCHA will abate payments only for those contract units that do not meet housing quality standards.

OCHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent.

Failure to Make Repairs

If an owner fails to make required repairs within 60 days (or a reasonable longer period established by OCHA) of the notice of abatement, OCHA must either remove the unit from the HAP contract or terminate the HAP contract in its entirety. OCHA must issue the family whose unit will be removed or all families residing in contract units, if OCHA is terminating the HAP contract, a tenant-based voucher to move at least 30 days prior to the removal of the unit from the HAP contract or termination of the HAP contract. A family may elect to remain in the project if the project contains a unit that meets the requirements of that section, with priority given to families who will remain in the same unit if there are insufficient units available to accommodate all families that wish to remain. OCHA must give any family residing in a unit that is either removed from the HAP contract or for which the HAP contract is terminated due to a failure to correct housing quality standards deficiencies at least 90 days or a longer period as OCHA determines is reasonably necessary following the termination of the HAP contract or removal of the unit from the HAP contract to lease a unit with tenant-based assistance.

OCHA will issue a family whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame a voucher no later than 30 days prior to the termination of the HAP contract. The initial term of the voucher will be 120 calendar days. No briefing is required for these families.

In order to receive tenant-based assistance under the HCV program, the family must submit a Request for Tenancy Approval and proposed lease within the 120-day period, unless OCHA grants an extension. OCHA will follow the policies set forth in Chapter 5 on voucher extension and expiration.

Offer of Public Housing [24 CFR 983.208(d)(6)(ii)]

If the family is unable to lease a new unit within the term of the voucher, and OCHA owns or operates public housing, OCHA must offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.

OCHA does operate a public housing program and will provide a preference for PBV families whose units are being removed from the HAP contract or whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame, and who were unable to lease a new unit within the term of the voucher.

Thirty days prior to the expiration date of the voucher, OCHA will provide written notice to the family stating that OCHA does provide such a preference and providing an estimation of availability for the appropriately-size public housing unit.

Relocation Assistance [24 CFR 983.208(d)(6)(iii)]

OCHA may assist families relocating due to the HAP contract being terminated as a result of the owner failing to make required repairs within the required time frame in finding a new unit, including using up to two months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or other reasonable moving costs as determined by OCHA based on their locality.

If OCHA uses withheld and abated payments to assist with relocation costs, OCHA must provide security deposit assistance to the family as necessary. OCHA must assist families with disabilities with locating available accessible units in accordance with 24 CFR 8.28 (a)(3). If the family receives security deposit assistance from OCHA for the new unit, OCHA may require the family to remit the security deposit returned by the owner of the new unit as such time that the lease is terminated, up to the amount of security deposit provided by OCHA for that unit.

OCHA will assist families with disabilities with locating available accessible units in accordance with program requirements.

OCHA will use up to two months of withheld and abated payment to assist with any required security deposit at the new unit. Funds will not be used for any other relocation assistance.

If the family receives a refund of a security deposit for the new unit, OCHA will not require any amount to be remitted to OCHA.

17-V.D. AMENDMENTS TO THE HAP CONTRACT TO ADD OR SUBSTITUTE UNITS [24 CFR 983.207]

At OCHA's discretion, OCHA and owner may execute an amendment to the HAP contract to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit or to add additional contract units to the existing HAP contract without a new proposal selection.

The proposed substituted or added units may be vacant or occupied (subject to the requirements of 24 CFR 983.207(c) described below). Before any such substitution or addition can take place:

- The units must comply with housing quality standards;
- The rent to owner must be reasonable; and
- One of the following conditions must apply:
    - The units existed at the time of HAP contract execution; or
    - In the case of a project completed in stages, the units existed at the time of OCHA acceptance of the last completed units; or
    - A unit, office space, or common area within the interior of a building containing contract units existed at the time described above, as applicable, and is reconfigured without impacting the building envelope, subject to 24 CFR 983.207(d), into one or more units to be added or substituted.

OCHA must describe in the administrative plan the circumstances under which it will add or substitute contract units, and how those circumstances support the goals of the PBV program.

OCHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

Addition of Contract Units [24 CFR 983.207(b)]

Before adding any contract units, the units must comply with housing quality standards and the rent to owner must be reasonable. The additional PBV units, however, are still subject to the PBV program cap and project cap. However, added units that qualify for an exclusion from the program cap (as described in 24 CFR 983.59) or an exception to or exclusion from the project cap (as described in 24 FR 983.54(c) and 24 CFR 983.59, respectively) do not count toward such caps.

Substituting or Adding Occupied Units [24 CFR 983.207(c)]

OCHA may place occupied units on the HAP contract subject to the following:

- The family occupying the unit must be eligible for assistance;
- The unit must be the appropriate for the size of the family occupying the unit under OCHA's subsidy standards;
- The family must be selected from the waiting list in accordance with applicable selection policies; and
- The unit may be occupied by a family who was assisted with a tenant-based voucher immediately prior to the unit being placed on the PBV HAP contract. The tenant-based HAP contract for the unit must terminate before the unit may be placed under the PBV HAP contract. The family occupying the unit is not a new admission to the voucher program.
    - If the family is in the initial term of the tenant-based lease, the family agreed to mutually terminate the tenant-based lease with the owner and enter into a PBV lease.

- If the initial term of the tenant-based lease has passed or the end of that term coincides with the time at which the unit will be placed on the PBV HAP contract, upon the owner's decision not to renew the tenant-based lease or to terminate the tenant-based lease in accordance with 24 CFR 982.308 or 982.310, respectively, the family agreed to relinquish the tenant-based voucher and enter into a PBV lease.

17-V.E. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b)(2) and (g) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.F. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

- The owner is maintaining the premises and contract units in accordance with housing quality standards;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by OCHA or selected from the owner-maintained waiting list, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit (unless needed as a reasonable accommodation);
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

OCHA may select families for the PBV program from those who are participants in OCHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance using information received and verified by OCHA within a period of 60 days before commencement of PBV assistance. For all families, OCHA must determine the total tenant payment for the family is less than the gross rent, such that the unit will be eligible for a monthly HAP.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and OCHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to OCHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. OCHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

OCHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

A family residing in a proposed contract unit on the proposal or project selection date is considered an in-place family. If an in-place family is determined to be eligible prior to placement of the family's unit on the HAP contract, the in-place family must be placed on OCHA's waiting list (if the family is not already on the list). Once the family's continued eligibility is determined (OCHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and OCHA must refer families to the applicable project owner for an appropriately sized PBV unit in the specific project. Admission of eligible in-place families is not subject to income targeting requirements.

During the initial term of the lease under the tenant-based tenancy, an in-place tenant-based voucher family may agree, but is not required, to mutually terminate the lease with the owner and enter into a lease and tenancy under the PBV program. If the family chooses to continue the tenant-based assisted tenancy, the unit may not be added to the PBV HAP contract. The owner may not terminate the lease for other good cause during the initial term unless the owner is terminating the tenancy because of something the family did or failed to do in accordance with 24 CFR 982.310(d)(2). The owner is expressly prohibited from terminating the tenancy during the initial term of the lease based on the family's failure to accept the offer of a new lease or revision, or for a business or economic reason.

If, after the initial term, the owner chooses not to renew the lease or terminates the lease for other good cause (as defined in 24 CFR 982.310(d)) to end the tenant-based assisted tenancy, the family would be required to move with continued tenant-based assistance or relinquish the tenant-based voucher and enter into a new lease to receive PBV assistance in order to remain in the unit.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the waiting list for the PBV program. OCHA or owner (as applicable) may establish selection criteria or preferences for occupancy of particular PBV units. OCHA may place families referred by the PBV owner on its PBV waiting list. OCHA must establish in the administrative plan the options it will use to structure the PBV waiting list. OCHA may:

- Use a separate, central, waiting list comprised of more than one or all PBV projects;
- Use the same waiting list for both tenant-based and some or all PBV projects;
- Use a separate waiting list for PBV units in individual projects or buildings (or for sets of such units) (which may be used in combination with either of the above options and may be maintained by the owner); or
- Merge the PBV waiting list with a waiting list for other assisted housing programs offered by OCHA.

If OCHA chooses to offer a separate waiting list for PBV assistance, OCHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance. OCHA must specify the name of the PBV projects in its administrative plan.

OCHA will use separate, site-based waiting lists for all projects or buildings that are receiving PBV assistance.

OCHA will maintain waiting lists for the following PBV projects:

- Village at Oakwood
- General Pershing
- Sooner Haven Apartments
- John H. Johnson Care Suites
- Danforth Senior Center
- Candle Lake Senior Center
- Dorset Place
- Vita Nova

OCHA Waiting List Preferences [24 CFR 983.251(c)(3)]

OCHA may establish in its administrative plan any preferences for occupancy of particular units including the name of the projects and the specific preferences that are to be used by project. Criteria for occupancy of units (e.g., elderly families) may also be established, however, selection of families must be done through admission preference. OCHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. OCHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above. For both excepted units and units under the increased program cap, 24 CFR 983.262(b)(2) requires that OCHA must select families from the waiting list though an admission preference for these types of units.

OCHA will not offer waiting list preferences for OCHA-maintained waiting lists.

17-VI.D. OWNER-MAINTAINED WAITING LISTS [24 CFR 983.251(c)(7)]

When OCHA uses separate waiting lists for individual projects or buildings, OCHA may establish in the administrative plan that owners will maintain the waiting lists.

All HCV waiting list administration requirements that apply to the PBV program also apply to owner-maintained waiting lists [24 CFR part 982, subpart E, other than 24 CFR 982.201(e), 982.202(b)(2), and 982.204(d)].

Under an owner-maintained waiting list, the owner is responsible for carrying out responsibilities including, but not limited to:

- Processing changes in applicant information;
- Removing an applicant's name from the waiting list;
- Opening and closing the waiting list;
    - If the owner-maintained waiting list is open and additional applicants are needed to fill vacant units, the owner must give public notice in accordance with the requirements of 24 CFR 982.206 and the owner waiting list policy.
- Maintaining complete and accurate records as described in 24 CFR 982.158; and
- Giving OCHA, HUD, and the Comptroller General full and free access to its offices and records concerning waiting list management, as described in 24 CFR 982.158(c).

Applicants already on OCHA's waiting list (including the tenant-based waiting list) must be permitted to place their names on the project's waiting lists.

Applicants may apply directly at the project, or the applicant may request that OCHA refer the applicant to the owner for placement on the project's waiting list. OCHA must disclose to the applicant all the PBV projects available to the applicant, including the projects' contact information and other basic information about the project.

OCHA will not establish owner-maintained waiting lists.

Owner Waiting List Policy [24 CFR 983.251(c)(7)(i)]

The owner must develop and submit to OCHA a written owner waiting list policy that must include:

- Policies and procedures concerning waiting list management and selection of applicants from the project's waiting list, including any admission preferences;
- Procedures for removing applicant names from the waiting list; and
- Procedures for closing and reopening the waiting list.

The owner must receive approval from OCHA in accordance with the process established in OCHA's administrative plan, and OCHA must include the owner's waiting list policy in OCHA's administrative plan.

OCHA will not establish owner-maintained waiting lists.

17-VI.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Income Targeting [24 CFR 983.251(c)(9)]

At least 75 percent of the families admitted to OCHA's tenant-based and project-based voucher programs during OCHA's fiscal year from the waiting list (including owner-maintained PBV waiting lists) must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(9)]

Families who require particular accessibility features for persons with disabilities must be selected first to occupy PBV units with such accessibility features. OCHA must have some mechanism for referring to accessible PBV units a family that includes a person with a mobility or sensory impairment.

17-VI.F. OFFER OF PBV ASSISTANCE OR OWNER'S REJECTION

Refusal of Offer [24 CFR 983.251(e)]

If a family refuses OCHA's offer of PBV assistance or the owner rejects a family for admission, the family's position on OCHA waiting list for tenant-based assistance is not affected regardless of the type of PBV waiting list used by OCHA. The impact (of a family's rejection of the offer or the owner's rejection of the family) on a family's position on the PBV waiting list will be determined as follows:

- If a central PBV waiting list is used, OCHA's administrative plan must address the number of offers a family may reject without good cause before the family is removed from the PBV waiting list and whether the owner's rejection will impact the family's place on the PBV waiting list.
- If a project-specific PBV waiting list is used, the family's name is removed from the project's waiting list connected to the family's rejection of the offer without good cause or the owner's rejection of the family. The family's position on any other project-specific PBV waiting list is not affected.
- OCHA must define good cause in its administrative plan. OCHA's definition of good cause must include, at minimum, that:
    - The family determines the unit is not accessible to a household member with a disability or otherwise does not meet the member's disability-related needs;
    - The unit has housing quality standards deficiencies;
    - The family is unable to accept the offer due to circumstances beyond the family's control (such as hospitalization, temporary economic hardship, or natural disaster); and
    - The family determines the unit presents a health or safety risk to a household member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

OCHA defines good cause for rejection of a unit offer as any of the factors listed above.

OCHA must not take any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- OCHA (or owner in the case of owner-maintained waiting lists) is not required to open a closed waiting list to place the family on that waiting list.
- Deny any admission preference for which the applicant is currently qualified;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection from the waiting list;
- Remove the applicant from the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252(a) and (b)]

Family Briefing

When a family accepts an offer for PBV assistance, OCHA must give the family an oral briefing. The briefing must include information on how the program works, the responsibilities of the family and owner, and the family's right to move.

In addition to the oral briefing, OCHA must provide a briefing packet that contains the following information:

- How OCHA determines the total tenant payment for a family;
- The family obligations under the program;
- Information on federal, state, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification under Section 504, the Fair Housing Act, and the Americans with Disabilities Act;
- OCHA subsidy standards, including when OCHA will consider granting exceptions to the standards, and when exceptions are required as a reasonable accommodation for a person with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act; and
- The family's right to move.

OCHA and the family must sign the statement of family responsibility.

Persons with Disabilities

OCHA must take appropriate steps to ensure effective communication, in accordance with 24 CFR 8.6 and 28 CFR Part 35, subpart E, and must provide information on the reasonable accommodation process in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, OCHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency [24 CFR 983.252(d)]

OCHA must take reasonable steps to ensure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964, HUD's implementing regulation at 24 CFR Part 1, Executive Order 13166 (see Chapter 2), and HUD's Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732) or successor authority.

17-VI.G. LEASING OF CONTRACT UNITS [24 CFR 983.252]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)]. The owner must provide a copy of the rejection notice to OCHA. During the term of the HAP contract, the owner must lease contract units to eligible families that are selected from the waiting list for the PBV program. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on OCHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

OCHA and the owner must make reasonable, good-faith efforts to minimize the likelihood and length of any vacancy in a contract unit. However, contract units in a rehabilitated housing project undergoing development activity after HAP contract execution that are not available for occupancy are not subject to this requirement.

If an owner-maintained waiting list is used, the owner must promptly notify OCHA of any vacancy or expected vacancy in a contract unit and refer the family to OCHA for final eligibility determination. OCHA must make every reasonable effort to make such final eligibility determination within 30 calendar days.

If a OCHA-maintained waiting list is used, the owner must promptly notify OCHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, OCHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies within 30 calendar days.

For units where the waiting list is OCHA-maintained, the owner must notify OCHA in writing via email within five business days of learning about any vacancy or expected vacancy. OCHA will refer families determined eligible to the owner for a suitability determination within 30 calendar days of receiving such notice from the owner. If the owner rejects the family after conducting a suitability screening, the owner must provide a copy of the rejection notice to OCHA. The owner may not offer a unit to a family until OCHA determines that the family is eligible for the program and has given the owner written confirmation.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, and notwithstanding the reasonable good-faith efforts of OCHA and the owner to fill such vacancies, OCHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

If any contract units have been vacant for 120 days, OCHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. OCHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy.

The amendment to the HAP contract will be effective the 1st day of the month following the date of OCHA's notice.

17-VI.H. TENANT SCREENING [24 CFR 983.255]

OCHA Option

OCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, OCHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

OCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

OCHA must provide the owner with an applicant family's current and prior address (as shown in OCHA records) and the name and address (if known by OCHA) of the family's current landlord and any prior landlords.

In addition, OCHA may offer the owner other information OCHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. OCHA must provide applicant families a description of OCHA policy on providing information to owners, and OCHA must give the same types of information to all owners.

The protections for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking in 24 CFR part 5, subpart L, apply to tenant screening. OCHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(a)(4)].

OCHA will inform owners of their responsibility to screen prospective tenants. OCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;

- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by OCHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 983.256(a)].

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease.

OCHA may review the owner's lease form to determine if the lease complies with state and local law. If OCHA determines that the lease does not comply with state or local law, OCHA may decline to approve the tenancy.

OCHA will review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by OCHA (the names of family members and any OCHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- OCHA terminates the HAP contract
- OCHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give OCHA a copy of all changes.

The owner must notify OCHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by OCHA and in accordance with the terms of the lease relating to its amendment. OCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose. The regulations at 24 CFR 5.858 through 5.861 on eviction for drug and alcohol abuse and 24 CFR Part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) apply to the PBV program.

In addition, the owner may terminate the tenancy in accordance with the requirements related to lease terminations for development activity on units under a HAP contract and for substantial improvement to units under a HAP contract.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by OCHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. OCHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by OCHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify OCHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. OCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

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

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

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. OCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If OCHA determines that a family is occupying a wrong size unit, based on OCHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, OCHA must promptly notify the family and the owner of this determination, and within 60 days of the determination, OCHA must offer the family the opportunity to receive continued housing assistance in another unit.

OCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 60 days of OCHA's determination. OCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in an appropriately sized unit in the same building or project;

PBV assistance an appropriately sized unit in in another project; and

Tenant-based voucher assistance.

If no continued housing assistance is available, OCHA must remove the wrong-sized or accessible unit from the HAP contract to make voucher assistance available to issue the family a tenant-based voucher.

If OCHA offers the family a tenant-based voucher, OCHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by OCHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, OCHA must remove the unit from the HAP contract.

If OCHA offers the family another form of assistance that is not a tenant-based voucher, OCHA must terminate the housing assistance payments for the wrong-sized or accessible unit and remove the unit from the HAP contract when:

- OCHA has offered PBV assistance or other project-based assistance in an appropriately sized unit, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by OCHA (not to exceed 90 days); or
- OCHA has offered other comparable tenant-based rental assistance, the family either accepts or does not accept the offer but does not move out of the PBV unit within a reasonable time as determined by OCHA (not to exceed 90 days).

In either of the above situations, the family may request, and OCHA may grant, one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate affordable, safe, and geographically proximate replacement housing.

OCHA must terminate the housing assistance payments for the wrong-sized or accessible unit and remove the unit from the HAP contract when OCHA has offered PBV assistance or other project-based assistance in an appropriately sized unit, and the family accepts the offer but does not move out of the PBV unit within a reasonable time as determined by OCHA (not to exceed 90 days). No extensions may be granted in this case. OCHA may reinstate a removed unit to the HAP contract after the family vacates the property, in accordance with 24 CFR 983.207(b).

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 90 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 90-day time frame, OCHA will terminate the housing assistance payments at the expiration of this 90-day period.

Except in the case of an offer by OCHA of PBV assistance or other project-based housing assistance in an appropriate size unit, the family accepts the offer but does not move out, OCHA may make exceptions to this 90-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member or to accommodate the family's efforts to locate affordable, safe, and geographically proximate replacement housing. The family must make such a request in writing prior to the end of the 90-day period. OCHA will only grant one extension which will not exceed an additional 90 days.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after one year of PBV assistance. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to OCHA. If the family wishes to move with continued tenant-based assistance, the family must contact OCHA to request the rental assistance prior to providing notice to terminate the lease. The right to request a move with tenant-based assistance does not expire, and the family may request a move at any time after the one-year period has expired.

If the family terminates the lease in accordance with these requirements, OCHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. OCHA must specify in the administrative plan whether it will offer families assistance under the voucher program or other comparable tenant-based rental assistance. If voucher assistance is offered to the family and the search term expires, OCHA must issue the voucher to the next eligible family before issuing another voucher to the family that requested to move. If voucher or other comparable tenant-based assistance is not immediately available upon the family's request to OCHA, OCHA must give the family priority to receive the next available opportunity for continued tenant-based assistance. OCHA must describe in its Administrative Plan its policies and procedures for how the family must contact OCHA and how OCHA documents families waiting for continued tenant-based rental assistance.

If the family terminates the assisted lease before one year of PBV assistance, the family relinquishes the opportunity for continued tenant-based assistance.

Except for families seeking protection under VAWA as described below, prior to providing notice to the owner to terminate the lease, any eligible family may submit a written request to OCHA for a voucher at any time after completing the 12-month occupancy requirement. OCHA will process the request within 10 business days of receiving the family's request. OCHA will verify that the family has met the 12-month occupancy requirement. No additional screening will be performed.

If the request is approved by OCHA, the family will receive the next available tenant-based voucher.

If a tenant-based voucher is not immediately available, OCHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to move after one year of PBV assistance. A RAD resident does not have priority for tenant-based assistance over a non-RAD PBV resident and vice versa. The list will be maintained separately from the tenant-based HCV list. Families on this list will be given priority over families on the tenant-based waiting list. The list will be organized by date and time of the family's written request. The list will also identify whether families live in standard or RAD PBV units. Once a family is placed on the list, OCHA will send the family an acknowledgement of receipt of their request and successful placement on the list. If a family requests a tenant-based voucher and then is unable or unwilling to move once OCHA offers the family a tenant-based voucher, the family's name will be removed from the list. The family may resubmit a new request to move at any time.

The family will be required to attend a standard HCV briefing in order to receive a voucher, OCHA will schedule a HCV briefing with each family.

Families exercising their right to move are not required to vacate their units before a lease has been entered into using their tenant-based voucher so long as the resident has not yet provided notice to vacate to the owner. At the time OCHA issues the tenant-based voucher, OCHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher. If family's search term (and any extensions) expires, OCHA must issue the voucher to the next eligible family. The family's name will be removed from the priority list, and the family will be able to resubmit a request at a later time.

Emergency Transfers under VAWA [Notice PIH 2017-08 and 24 CFR 983.261(f) and (g)]

In the case of a move due to domestic violence, dating violence, sexual assault, stalking, or human trafficking, OCHA must describe policies for facilitating emergency transfers for families with PBV assistance in their Emergency Transfer Plan, including when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

When the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member, the family is not required to give the owner advance written notice or contact OCHA before moving from the unit. Additionally, when any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move, the family is not required to give the owner advance written notice or contact OCHA before moving from the unit. OCHA may not terminate the assistance of a family due to a move occurring under these circumstances and must offer the family the opportunity for continued tenant-based assistance if the family had received at least one year of PBV assistance prior to moving.

If a family break-up results from an occurrence of domestic violence, dating violence, sexual assault, stalking or human trafficking, OCHA must ensure that the victim retains assistance.

Except where special consideration is needed for the project-based voucher program, OCHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, OCHA will provide options for continued assistance.

OCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where OCHA has PBV units. OCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in OCHA's public housing program. Such a decision will be made by OCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. OCHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, OCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where OCHA has PBV units. OCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may request an external emergency transfer to OCHA's public housing program for which they are required to apply. OCHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW [24 CFR 983.301(a)]

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the AHAP states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

17-VIII.B. AMOUNT OF RENT TO OWNER [24 CFR 983.301(b)]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by OCHA in accordance with the administrative plan not to exceed 110 percent of the applicable fair market rent (or amount of any applicable exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Rent to Owner for Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Tax credit units that do not meet the criteria below will have their rents determined by OCHA pursuant to 24 CFR 983.301(b) as stated above.

Rents are set differently in contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;

- The contract unit is not located in a qualified census tract;
- In the same building, there are comparable tax credit units of the same bedroom size as the contract unit and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent (or any exception payment standard) as determined in 24 CFR 983.301(b);

For contract units that meet these criteria, the rent to owner must not exceed the lowest of:

- An amount determined by OCHA in accordance with the administrative plan, not to exceed the tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

The tax credit rent is 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., additional assistance such as tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, OCHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, OCHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, OCHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

For PBV projects that are not located in a designated SAFMR area or located in a ZIP code where OCHA has opted in to SAFMRs, any exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

For PBV projects that are located in a designated SAFMR area or located in a ZIP code where OCHA has opted in to SAFMRs, an exception payment standard amount under the tenant-based voucher program applies when setting rents under 24 CFR 983.301(b)(1) for PBV units and 983.301(c)(1)(iv) for certain tax credit units only if OCHA has adopted a policy applying SAFMRs to its PBV program and met all other requirements in 24 CFR 888.113(h), which are described below.

OCHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Upon written request by the owner, OCHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. OCHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, OCHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if OCHA determines it is necessary due to OCHA's budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h) and 24 CFR 983.301(f)(3)]

Unless one of the following exceptions apply, SAFMRs do not apply to PBV projects regardless of whether HUD designates the metropolitan area or OCHA notifies HUD and implements the SAFMRs under paragraph 883.113(c)(3).

- Where the proposal or project selection date was on or before the effective dates of either or both the SAFMR designation/implementation and OCHA administrative policy, OCHA and owner may mutually agree to apply the SAFMR. The application of the SAFMRs must be prospective and consistent with OCHA's administrative plan. The owner and OCHA may not subsequently choose to revert back to the use of the metropolitan-wide or county-wide FMRs for the PBV project. If the rent to owner will increase as a result of the mutual agreement to apply the SAFMRs to the PBV project, the rent increase must not be effective until the next annual anniversary of the HAP contract.
- Where the proposal or project selection date was after the effective dates of both the SAFMR designation/implementation and OCHA's administrative policy, the SAFMR must apply to the PBV project if OCHA'S administrative plan provides that SAFMRs are used for all future PBV projects.

If OCHA chooses to implement this administrative policy, the SAFMRs must apply to all future PBV projects located within the same metropolitan area or non-metropolitan county where the SAFMRs are in effect for OCHA's HCV program. An owner and OCHA may not subsequently choose to apply the metropolitan area or county FMR to the project, regardless of whether OCHA subsequently changes its administrative plan to revert to the use of metropolitan-wide or county-wide FMR for future PBV projects.

For purposes of this section, the term effective date of the Small Area FMR designation means:

- The date that HUD designated a metropolitan area as a SAFMR area; or
- The date that HUD approved OCHA's request to voluntarily opt to use Small Area FMRs for its HCV program, as applicable.

For purposes of this section, the term effective date of OCHA's administrative policy means the date the administrative policy was formally adopted as part of OCHA's administrative plan by OCHA's Board of Commissioners or other authorized OCHA officials.

OCHA will not apply SAFMRs to OCHA's PBV program.

17-VIII.C. REDETERMINATION OF RENT TO OWNER [24 CFR 983.302]

OCHA must redetermine the rent to owner:

- When there is a 10 percent or greater decrease in the published FMR;
- Upon the owner's request consistent with requirements established in OCHA's administrative plan; or
- At the time of the automatic adjustment by an operating cost adjustment factor (OCAF) in accordance with 24 CFR 983.302(b)(3).

Adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

Rent Increase [24 CFR 983.302(b)]

During the term of the HAP contract, any increase in rent to owner is effective on the annual anniversary of the HAP contract. A rent increase may occur either through automatic adjustment by an OCAF or as the result of an owner request for a rent increase. The owner does not need to request a rent adjust when a rent increase occurs through an OCAF since OCHA redetermines the rent automatically under that option.

OCAF [24 CFR 983.302(b)(3)]

If OCHA and owner agree, the HAP contract may provide for rent adjustments using an OCAF established by the HUD pursuant to Section 524(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) at each annual anniversary of the HAP contract and published annually in the Federal Register. Further, the HAP contract may require an additional increase up to an amount determined by OCHA (pursuant to 24 CFR 983.301(b) and (c)) if requested by the owner in writing, periodically during the term of the contract. The HAP contract must require an additional increase up to an amount determined by OCHA at the point of contract extension, pursuant to 24 CFR 983.301(b) and (c), if requested by the owner in writing.

OCHA will allow for rent increases by OCAF rather than owner request on a case-by-case basis, including allowing for additional increases up to an amount determined by OCHA pursuant to 24 CFR 983.301(b) and (c) if requested by the owner in writing. An owner's request must be submitted to OCHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

When OCHA allows for rent increases by OCAF, at the point of contract extension, the contract will require an additional increase up to an amount determined by OCHA if requested by the owner in writing. An owner's request must be submitted to OCHA 60 days prior to the anniversary date of the contract extension date and must include the new rent amount the owner is proposing.

Owner-Requested Rent Increases [24 CFR 983.302(b)(4)]

If the HAP contract does not provide for automatic adjustment by an OCAF, and if an owner wishes to request an increase in the rent to owner from OCHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.E.). The request must be in writing and in the form and manner required by OCHA. OCHA may only make rent increases in accordance with the rent limits described previously.

There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs). The administrative plan must specify any advance notice the owner must give OCHA and the form the request must take.

An owner's request for a rent increase must be submitted to OCHA in writing (or via email) 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

OCHA may not approve, and the owner may not receive any increase of rent to owner, until and unless the owner has complied with requirements of the HAP contract, including compliance with housing quality standards, except that housing quality standards compliance is not required for units undergoing development activity that complies with 24 CFR 983.157 or substantial improvement that complies with 24 CFR 983.212. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease [24 CFR 983.302(c)]

If the HAP contract does not provide for adjustment by an OCAF and there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

If the HAP contract provides for rent adjustments by an OCAF and there is a decrease in the fair market rent, tax credit rent, or reasonable rent that requires a decrease to the rent to owner, the rent to owner must be decreased.

However, at any time during the term of the HAP contract, OCHA may elect within the HAP contract to not reduce rents below the initial rent to owner. Where OCHA makes such an election, the rent to owner shall not be reduced below the initial rent to owner, except:

- To correct errors in calculations in accordance with HUD requirements;
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required; or
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

Notice of Rent Change to Owner [24 CFR 983.203(d)]

Whenever there is a change in rent to owner, OCHA must provide written notice to the owner specifying the amount of the new rent to owner. OCHA's notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

OCHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-Owned Units [24 CFR 983.301(g)]

For OCHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. OCHA must use the rent to owner established by the independent entity.

17-VIII.D. REASONABLE RENT [24 CFR 983.301(d) and 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by OCHA, except where OCHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

OCHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- OCHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to add a contract unit or substitute a different contract unit in the same building or project;

- OCHA accepts a completed unit after development activity that is conducted after HAP contract execution in accordance with 24 CFR 983.156(b)(3); and
- There is any other change that may substantially affect the reasonable rent.

OCHA must determine reasonable rent in accordance with 24 CFR 983.303.

Rent Floor

The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where OCHA has elected within the HAP contract not to reduce rents below the initial rent to owner, and upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements;
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55; and
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant.

If OCHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

OCHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of the circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, OCHA will use the higher initial rent to owner amount.

How to Determine Reasonable Rent [24 CFR 983.303(c)]

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, OCHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner. The reasonable rent determination must be based on the condition of the assisted unit at the time of the determination and not on anticipated future unit conditions.

Comparability Analysis [24 CFR 983.303(d)]

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by OCHA. The comparability analysis may be performed by OCHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

OCHA-Owned Units [24 CFR 983.303(f)]

For OCHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for OCHA-owned units to OCHA.

Owner Certification of Reasonable Rent [24 CFR 983.303(e)]

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, OCHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.E. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, OCHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, OCHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with housing quality standards and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and OCHA agree on a later date.

Except for discretionary vacancy payments, OCHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by OCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

Payment at Move-Out Month [24 CFR 983.352(a)]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if OCHA determines that the vacancy is the owner's fault.

The owner may keep the housing assistance payment for the calendar month when the family moves out.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of OCHA, the HAP contract may provide for vacancy payments to the owner for a OCHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. OCHA must include in its administrative plan OCHA's policy on the conditions under which it will allow vacancy payments in a HAP contract, the duration of the payments, amount of vacancy payments it will make to an owner, and the required form and manner of requests for vacancy payments.

OCHA will decide on a case-by-case basis if OCHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

OCHA may only make vacancy payments if:

- The owner gives OCHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge and belief);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by OCHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by OCHA and must provide any information or substantiation required by OCHA to determine the amount of any vacancy payment.

The vacancy payment to the owner for each month of the maximum two-month period is determined by OCHA, and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment may cover only the period the unit remains vacant.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified OCHA of the vacancy in accordance with the policy in Section 17-VI.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made in writing (including via email) within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and OCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by OCHA within 10 business days of OCHA's request, no vacancy payments will be made.

If vacancy payments are made, OCHA will make vacancy payments for the period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will not exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment will cover only the period the unit remains vacant.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by OCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in OCHA's notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by OCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by OCHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by OCHA.

Likewise, OCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. OCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. OCHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements [24 CFR 983.353(d)]

If the amount of the utility allowance exceeds the total tenant payment, OCHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

OCHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If OCHA chooses to pay the utility supplier directly, OCHA must notify the family of the amount paid to the utility supplier.

OCHA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants on the premises.

17-IX.E. PROJECT RECORD RETENTION [24 CFR 983.12]

The regulation at 24 CFR 982.158 applies to both the OCHA's tenant-based and project-based programs. In addition, for each PBV project, OCHA must maintain the following records throughout the HAP contract term and for three years thereafter:

- Records to document the basis for OCHA selection of the proposal, if selection is competitive, or project, if selection is noncompetitive, including records of OCHA's site selection determination (see 24 CFR 983.55) and records to document the completion of the review of the selection process in the case of OCHA-owned units, and copies of the written notice of proposal selection and response of the appropriate party;
- The analysis of impact, if applicable;
- The subsidy layering determination, if applicable;
- The environmental review record, if applicable;
- The Agreement to enter into HAP contract (AHAP), if applicable;
- Evidence of completion, if applicable;
- The HAP contract and any rider and/or amendments, including amendments to extend the term of the contract;
- Records to document the basis for OCHA determination and redetermination of rent to owner;
- Records to document HUD approval of the independent entity or entities, in the case of OCHA-owned units;
- Records of the accessibility features of the project and each contract unit; and
- Other records as HUD may require.

EXHIBIT 17-1: PBV DEVELOPMENT VILLAGE AT OAKWOOD

DEVELOPMENT INFORMATION

Development Name: Village at Oakwood

Address: 817 S.W. 59th Street, Oklahoma City, OK 73109

Owner Information: Village at Oakwood, LLC

Property Management Company: None

PHA-Owned: No

Mixed Finance Development: LITHC

HAP CONTRACT

Effective Date of Contract: December 01, 2009

HOTMA Requirements: Pre-HOTMA

Term of HAP Contract: 10 years

Expiration Date of Contract: December 01, 2019

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units		90					**90**
Initial Contract Rent	$	$599.00	$	$	$	$	

Structure Type: Low Rise

Housing Type: Assisted Living

UTILITY RESPONSIBILITY

[Enter in Accordance with the HAP Exhibit C]

Utility	Fuel Type (Gas, Electric, Oil, Coal, Other)	Paid By (Tenant/Owner)	Provided By (Tenant/Owner)
Heating	Electric Geo-thermal	Owner	Owner
Cooking	Electric	Owner	Owner
Water Heating	Electric Geo-thermal	Owner	Owner
Other Electric		Owner	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Owner	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: All 90 units comply with Section 504 of the Rehabilitation Act of 1973.

Target Population: 62 and over who qualify for the Advantage Waiver program and need assisted living

Excepted Units:

- **Supportive Services:** Yes, see Exhibit D of HAP Contract
- **Elderly Units**: "Yes" all 90 units
- **Disabled Units** (only for HAP contracts executed prior to April 18, 2017) "Yes" which units are for persons with disabilities all 90 units
- **FUPY/FYI Units:** "No."
- **Are units excepted because they are located in a low-poverty census tract area?:**

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: None

Preference Verification:

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed finance developments, other income limits may also apply) Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Vacancy Payments: in accordance with HAP contract Part 1, e, 2 and Section 17-V.F. within this chapter

EXHIBIT 17-2: PBV DEVELOPMENT JOHN H JOHNSON CARE SUITES

DEVELOPMENT INFORMATION

Development Name: John H. Johnson Care Suites

Address: 1213 N.W. 122nd Street, Oklahoma City, OK 73114

Owner Information: John H. Johnson ALF, LP

Property Management Company: None

PHA-Owned: Yes

Mixed Finance Development: LITHC

HAP CONTRACT

Effective Date of Contract: January 20, 2020

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 years

Expiration Date of Contract: January 20, 2040

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units		120	10				**130**
Initial Contract Rent	$	$724.00	$850.00	$	$	$	

Structure Type: Multi-family

Housing Type: Assisted Living

UTILITY RESPONSIBILITY

[Enter in Accordance with the HAP Exhibit C]

Utility	Fuel Type (Gas, Electric, Oil, Coal, Other)	Paid By (Tenant/Owner)	Provided By (Tenant/Owner)
Heating	Electric Geo-thermal	Owner	Owner
Cooking	Electric	Owner	Owner
Water Heating	Electric Geo-thermal	Owner	Owner
Other Electric		Owner	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Owner	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: All 90 units comply with Section 504 of the Rehabilitation Act of 1973.

Target Population: 62 and over who qualify for the Advantage Waiver program and need assisted living

Excepted Units:

- **Supportive Services:** Yes, see Exhibit D of HAP Contract
- **Elderly Units**: "Yes" all 130 units
- **Disabled Units** (only for HAP contracts executed prior to April 18, 2017) "Yes" which units are for persons with disabilities all 130 units
- **FUPY/FYI Units:** "No."
- **Are units excepted because they are located in a low-poverty census tract area?:**

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: None

Preference Verification:

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed finance developments, other income limits may also apply) Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Vacancy Payments: in accordance with HAP contract Part 1, e, 2 and Section 17-V.F. within this chapter

EXHIBIT 17-3: PBV DEVELOPMENT PERSHING CENTER

DEVELOPMENT INFORMATION

Development Name: Pershing Center

Address: 2400 General Pershing Blvd., Oklahoma City, OK 73107

Owner Information: Pershing Center Limited Partnership

Property Management Company: Neighborhood Services Organization

PHA-Owned: No

Mixed Finance Development:

HAP CONTRACT

Effective Date of Contract: July 30, 2003

HOTMA Requirements: Pre-HOTMA

Term of HAP Contract: 10 years

Expiration Date of Contract: July 30, 2013

Effective Date of Contract Extension: July 31, 2013

Term of HAP Contract Extension: 15 years

Expiration Date of Contract Extension: July 31, 2028

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units	41	10					**51**
Initial Contract Rent	$417.00	$443.00	$	$	$	$	

Structure Type: Low-rise

Housing Type: Independent Group Residence

UTILITY RESPONSIBILITY

[Enter in Accordance with the HAP Exhibit C]

Utility	Fuel Type (Gas, Electric, Oil, Coal, Other)	Paid By (Tenant/Owner)	Provided By (Tenant/Owner)
Heating	Electric Geo-thermal	Owner	Owner
Cooking	Electric	Owner	Owner
Water Heating	Electric Geo-thermal	Owner	Owner
Other Electric		Owner	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Owner	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: All 51 units comply with Section 504 of the Rehabilitation Act of 1973 with 5 units having certain modifications for specific disabilities.

Target Population: Supportive Permanent Housing

Excepted Units:

- **Supportive Services:** Yes, see Exhibit B of HAP Contract
- **Elderly Units**: No
- **Disabled Units** (only for HAP contracts executed prior to April 18, 2017) "Yes" which units are for persons with disabilities #203, #305, #341, #507,and #607
- **FUPY/FYI Units:** "No."
- **Are units excepted because they are located in a low-poverty census tract area?:**

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: None

Preference Verification:

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed finance developments, other income limits may also apply) Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Vacancy Payments: None

EXHIBIT 17-9: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units

[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05. If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family's unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non-RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

RAD Requirements Applicable to Non-RAD units in the Project

Alternative Requirement under RAD as Listed in Notice PIH 2019-23	Standard PBV Policy That Does Not Apply	Applicable Policy in Chapter 18
1.6.A.4. Site Selection – Compliance with PBV Goals	17-II.G. SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding housing and economic opportunity requirements.	18-II.F. SITE SELECTION STANDARDS
1.6.B.5.d. PBV Site-Specific Utility Allowances	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VII.C. UTILITY ALLOWANCES
1.6.C.1. No Rescreening of Tenants upon Conversion	Policies contained in Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs.	18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION
1.6.C.2. Right to Return	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-I.D. RELOCATION REQUIREMENTS
1.6.C.3. Phase-in of Tenant Rent Increases	Alternative requirements under RAD. No corresponding policy in Chapter 17.	18-VIII.D. PHASE-IN OF TENANT RENT INCREASES

1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs	Not covered in administrative plan.	18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS
1.6.C.5. Resident Participation and Funding	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VI.D. RESIDENT PARTICIPATION AND FUNDING
1.6.C.6. Resident Procedural Rights	Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18.	18-VI.H. RESIDENTS' PROCEDURAL RIGHTS
1.6.C.7. Earned Income Disregard (EID)	Alternative requirements under RAD for in-place residents. New admissions follow policies in Chapter 6.	18-VI.G. EARNED INCOME DISALLOWANCE
1.6.C.8. Jobs Plus	Not covered in administrative plan.	No corresponding policy.
1.6.C.9. When Total Tenant Payment Exceeds Gross Rent	Alternative requirements under RAD for in-place residents. New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments.	18-VI.B. LEASE, Continuation of Housing Assistance Payments
1.6.C.10. Under-Occupied Unit	Alternative requirements under RAD for in-place residents. New admissions follow 17-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units	18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units
1.6.D.4. Establishment of Waiting List	Alternative requirements under RAD for initial establishment of the waiting list. Once waiting list is established, follow 17-VI.E. SELECTION FROM THE WAITING LIST	18-V.D. ORGANIZATION OF THE WAITING LIST
1.6.D.10. Initial Certifications and Tenant Rent Calculations	Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 17.	18-VIII.C. TENANT RENT TO OWNER, Initial Certifications

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.

Chapter 18

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

INTRODUCTION

This chapter describes HUD regulations and OCHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

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

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how OCHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over thirty (30) years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

18-I.B. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy.~~.~~

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the "RAD Statute." Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing~~.~~
  - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
  - Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.
  - Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (~~10~~/14 6/20)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)

- Notice PIH 2016-17, Rental Assistance Demontration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016 , AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.

- RAD FAQs (http://www.radresource.net/search.cfm)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, OCHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

18-I.D. RELOCATION REQUIREMENTS

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.
- In addition, OCHA must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broaded than URA relocation assistance and payments.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

- If OCHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. OCHA must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.
- Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:
  - Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
  - The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
  - Income limit eligibility requirements associated with the LIHTC program or another program; and
  - Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.
- Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept an OCHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, OCHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. OCHA is prohibited from employing any tatics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, OCHA may not terminate a resident's lease if OCHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.
- In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, OCHA may treat multiple converted developments on the same site as one for purposes of right to return. Should OCHA seek to have the resident exercise the right to return at a future phase, OCHA must secure the resident's consent in writing.
- Alternative housing options may involve a variety of housing options, including but not limited to:
  - Transfers to public housing
  - Admission to other affordable housing properties subject to the applicable program rules
  - Housing choice voucher (HCV) assistance
  - Homeownership programs subject to the applicable program rules
  - Other options identified by OCHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While OCHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.
- In addition, OCHA must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.

- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a OCHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. OCHA must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.

PART II: PBV PROJECT SELECTION

18-II.A. OVERVIEW

Unlike in the standard PBV program where OCHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., OCHA cannot execute a contract with itself). To avoid this situation, OCHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of OCHA (including to a "single-purpose entity" that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) OCHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between OCHA (as the contract administrator) and OCHA's related entity (as the owner for HAP contract purposes). Note that in the second scenario, both OCHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].

- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that OCHA or a nonprofit entity preserves an interest in the profit.

  The requirement for a public or nonprofit entity, or preservation of an interest by OCHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;

(6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.

- Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or non-profit entity. The requirement for a public or non-profit entity is satisfied if a public or non-profit entity (or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.
- If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that OCHA preserves its interest in the property. Preservation of OCHA's interest in the property includes but is not limited to the following:
  - OCHA, or an affiliate under its sole control, is the general partner or managing member;
  - OCHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
  - OCHA retains control over leasing the property and determining program eligibility;
  - OCHA enters into a control agreement by which OCHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
  - Other means that HUD finds acceptable.

18-II.C. OCHA-OWNED UNITS [24 CFR 983.59; FR Notice 1/18/17, and Notice PIH 2017-21]

If the project is OCHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of control/ownership provided under Notice PIH 2012-32, REV-3 is used specifically to determine whether OCHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of OCHA-owned under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of ownership or control, but may not be considered OCHA-owned for purposes of requiring an independent entity.

The independent entity that performs these program services may be the unit of general local government for OCHA's jurisdiction (unless OCHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

OCHA may compensate the independent entity from OCHA's ongoing administrative fee income (including amounts credited to the administrative fee reserve). OCHA may not use other program receipts to compensate the independent entity for its services. OCHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23; Notice PIH 2012-32, REV-3; Notice PIH 2012-32, REV 2]

For projects governed by Notice PIH 2019-23, the following language applies:

- In the case that OCHA will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects though the conversion. However, OCHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- In the case where OCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, OCHA should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- Following execution of the HAP contract, OCHA is authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, OCHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

- In the case that OCHA is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; OCHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, OCHA may:
    - Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
    - Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that OCHA does not expend for closeout costs.
- In the case where OCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, OCHA should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- In addition, following execution of the HAP contract, OCHA is authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, OCHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved "sources and uses" attached to the RCC.

For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

- In the case that OCHA is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; OCHA may convey all program funds to the covered project. HUD will recapture any public housing funds that OCHA has not expended once it no longer has units under ACC.

In the case where OCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, OCHA should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

18-II.E. PBV PERCENTAGE LIMITATION [Notice PIH 2019-23]

PBV Percentage Limitation

Covered projects do not count against the maximum amount of assistance OCHA may utilize for the PBV program, which under the standard PBV program is set at twenty (20%) percent of the authorized units allocated to OCHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

Unit Cap Limitation

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, OCHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 only, the following language applies:

- In general, OCHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, OCHA may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as “excepted units” and do not count toward the project cap.
- For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

18-II.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of OCHA’s proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

OCHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2019-23; Environmental Review Requirements for RAD Conversions, March 2019]

HUD cannot approve an applicant’s financing plan submission unless and until the required environmental review has been completed for the applicant’s proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant’s financing plan.

HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

PART III: DWELLING UNITS

18-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [Notice PIH 2016-17]

Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities.The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. OCHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

18-III.D. INSPECTING UNITS

Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23]

Under standard PBV regulations at 24 CFR 983.103(b), OCHA may not enter into a HAP contract until OCHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are OCHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

Before providing assistance to a new family in a contract unit, OCHA must inspect the unit. OCHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, OCHA must inspect a random sample consisting of at least twenty (20%) percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

If more than twenty (20%) percent of the sample of inspected contract units in a building fail the initial inspection, OCHA must reinspect one hundred (100%) percent of the contract units in the building.

Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]

In the case of mixed-finance properties that are subject to alternative inspections, OCHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

Other Inspections [24 CFR 983.103(e)]

OCHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. OCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

OCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting OCHA supervisory quality control HQS inspections, OCHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]

In the case of OCHA-owned units, the inspections must be performed by an independent agency designated by OCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to OCHA and to the HUD field office where the project is located. OCHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by OCHA.

PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

18-IV.A. OVERVIEW [RAD PBV Quick Reference Guide 6/20]

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with OCHA, that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

18-IV.B. HAP CONTRACT REQUIREMENTS

Contract Information [PBV Quick Reference Guide (6/20); Notice PIH 2019-23]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [*RADBlast!* 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, OCHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2019-23]

The initial term of the HAP contract may not be for less than fifteen (15) years, and may be for a term of up to twenty (20) years upon request of the owner and with approval of OCHA. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to OCHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which established a maximum term of fifteen (15) years, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Mandatory Contract Renewal [Notice PIH 2019-23]

By statue, upon contact expiration, the agency administering the vouchers will offer, and OCHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal.Consequently 24 CFR 983.205(b), governing OCHA discretion to renew the contract for term of up to fifteen (15) years, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below eighty (80%) percent of the area median income at the time of admission and rents may not exceed thirty (30%) percent of eighty (80%) percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for HQS Violations [24 CFR 983.208(b)]

OCHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If OCHA determines that a contract does not comply with HQS, OCHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

OCHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

18-IV.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH 2019-23]

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If OCHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

OCHA will float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

Reduction in HAP Contract Units [Notice PIH 2019-23]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

OCHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a OCHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, OCHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, OCHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]

The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, they certify that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by OCHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

At the discretion of OCHA, the HAP contract may provide for vacancy payments to the owner for a OCHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by OCHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

OCHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18-V.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2019-23]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and OCHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to OCHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. OCHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

OCHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.

OCHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. OCHA currently has waiting lists for the following RAD PBV projects: Sooner Haven Apartments, Candle Lake Senior Center, and Louis F. Danforth Senior Center.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, OCHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to OCHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

OCHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). OCHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

OCHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the OCHA's waiting list. OCHA may establish selection criteria or preferences for occupancy of particular PBV units.

Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]

At least seventy-five (75%) percent of the families admitted to OCHA's tenant-based and project-based voucher programs during OCHA's fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, OCHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]

OCHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

OCHA will not offer any preferences for the RAD PBV program or for particular PBV projects or units.

18-V.F. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

OCHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under OCHA's selection policy

- Removing the applicant from the tenant-based voucher waiting list

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, OCHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, OCHA must provide a briefing packet that explains how OCHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, OCHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, OCHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

OCHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

18-V.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by OCHA from OCHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on OCHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify OCHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, OCHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. OCHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify OCHA in writing (mail, fax, or e-mail) within five (5) business days of learning about any vacancy or expected vacancy.

OCHA will make every reasonable effort to refer families to the owner within ten (10) business days of receiving such notice from the owner.

18-V.H. TENANT SCREENING [24 CFR 983.255]

OCHA Responsibility

OCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, OCHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

OCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

OCHA must provide the owner with an applicant family's current and prior address (as shown in OCHA records) and the name and address (if known by OCHA) of the family's current landlord and any prior landlords.

In addition, OCHA may offer the owner other information OCHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. OCHA must provide applicant families a description of OCHA policy on providing information to owners, and OCHA must give the same types of information to all owners.

OCHA may not disclose to the owner any confidential information provided in response to a 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(c)].

OCHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. OCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy

PART VI: OCCUPANCY

18-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by OCHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

18-VI.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter into 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.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services; and

- For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. OCHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by OCHA (the names of family members and any OCHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f); *PBV Quick Reference Guide* 6/20]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- OCHA terminates the HAP contract
- OCHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give OCHA a copy of all changes.

The owner must notify OCHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by OCHA and in accordance with the terms of the lease relating to its amendment. OCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as OCHA's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction the termination procedure for RAD conversions to PBV will require that OCHA provide adequate written notice of termination of the lease which may not be less than:

- A reasonable period of time, but not to exceed thirty (30) days:

- If the health or safety of other tenants, OCHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction

- Not less than fourteen (14) days in the case of nonpayment of rent
- Not less than thirty (30) days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by OCHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than one hundred eighty (180) consecutive days. OCHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23; RAD PBV Quick Reference Guide 6/20]

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time as the family's TTP falls below the gross rent, the family will pay the owner the lesser of their TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. OCHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if OCHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the one hundred eighty (180) day window. If a family's assistance is terminated as a result of their zero HAP status, OCHA must remove the unit from the HAP contract. If the project is fully assisted, OCHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, OCHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify OCHA of the change and request an interim reexamination before the expiration of the one hundred eighty (180) day period.

Security Deposits [24 CFR 983.259; *PBV Quick Reference Guide* 6/20]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution.Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. OCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

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

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

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. OCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

18-VI.C. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

18-VI.D. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. If OCHA determines that a family is occupying a wrong-size unit, based on OCHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, OCHA must promptly notify the family and the owner of this determination, and OCHA must offer the family the opportunity to receive continued housing assistance in another unit.

OCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within ten (10) business days of OCHA's determination. OCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

1. PBV assistance in the same building or project
2. PBV assistance in another project
3. Tenant-based voucher assistance

If OCHA offers the family a tenant-based voucher, OCHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, OCHA must remove the unit from the HAP contract.

If OCHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by OCHA, or both, OCHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by OCHA and remove the unit from the HAP contract.

When OCHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this thrity (30) day time frame, OCHA will terminate the housing assistance payments at the expiration of this thirty (30) day period.

OCHA may make exceptions to this thirty (30) day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to OCHA.

Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]

Family's Right to Choice Mobility

Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

To ensure that residents are fully aware of and understand their rights under choice mobility, OCHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.

Moving with Continued Assistance under Choice Mobility

If the family wishes to move with continued tenant-based assistance, the family must contact OCHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, OCHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, OCHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to OCHA for a choice mobility voucher at any time after completing the twelve (12) month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their twelve (12) month occupancy requirement, their twelve (12) month clock will reset. The family must wait twelve (12) months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the twelve (12) month clock does not reset.

OCHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list.

The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

OCHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher.

Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time OCHA issues a choice mobility voucher, OCHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.

Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by OCHA exceeds twenty (20%) percent of OCHA's authorized units under its HCV ACC with HUD, OCHA may establish a turnover cap. OCHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If OCHA chooses to establish a turnover cap and the cap is implemented, OCHA must create and maintain a waiting list in the order requests from eligible households were received.

As a result of RAD, when the total number of PBV units (including RAD PBV units) administered by OCHA exceeds twenty (20%) percent of OCHA's authorized units under its HCV ACC with HUD. OCHA will establish a choice mobility cap. OCHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, OCHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that OCHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, OCHA will provide several options for continued assistance.

OCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where OCHA has PBV units. OCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, OCHA will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in OCHA's public housing program. Such a decision will be made by OCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, OCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where OCHA has PBV units. OCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to OCHA's public housing program.

18-VI.E. REEXAMINATIONS [PBV *Quick Reference Guide* 6/20]

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, OCHA does not need to recertify tenants at the point of conversion.

For each family residing in a unit undergoing conversion of assistance under RAD, OCHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

18-VI.F. EARNED INCOME DISALLOWANCE [Notice PIH 2019-23]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

18-VI.G. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction the termination procedure for RAD conversions to PBV require that OCHA provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed thirty (30) days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than fourteen (14) days in the case of nonpayment of rent.
- Not less than thirty (30) days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply.

18-VI.H. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(vi), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, will perform the hearing, as is the current standard in the program.
- For any additional hearings required under RAD, OCHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving OCHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and OCHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

PART VII: DETERMINING CONTRACT RENT

18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for OCHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

OCHA may adjust subsidy (and contract rents) across multiple projects as long as OCHA does not exceed the aggregate subsidy for all of the projects OCHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contact rent , the initial rents are set at the lower of:

- An amount determined by OCHA, not to exceed one hundred ten (110%) percent of the fair market rent (FMR) or OCHA's exception payment standard approved by HUD;
- The reasonable rent;

18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2019-23; *PBV Quick Reference Guide* 6/20]

RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD's operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service, subject to the availability of appropriations for each year of the contract term.As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, (as determined by the PHA that administers the contract or the independent entity, as applicable),with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

OCHA (or independent entity, if the project is OCHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF. OCHA, who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments is not required.

Properties are eligible to receive prior years' OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. OCHA administering the contract (or the independent entity)

must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps.

The owner will request a contract rent adjustment from OCHA, who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify OCHA, who administers the contract in writing of the results of its review of the rent adjustment request. OCHA, who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from OCHA, that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

18-VII.C. UTILITY ALLOWANCES [Notice PIH 2019-23; *PBV Quick Reference Guide* ~~10/14~~ 6/20]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, OCHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, OCHA, that administers the contract must maintain the utility allowance schedule. OCHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517, respectively, or OCHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015 04.

Each family transitions to the new utility allowance at their first recertification following conversion.

OCHA will establish a site-specific utility allowance schedule for the RAD developments.

18-VII.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by OCHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, OCHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by OCHA. The comparability analysis may be performed by OCHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

OCHA-Owned Units

For OCHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for OCHA-owned units to OCHA and to the HUD field office where the project is located.

PART VIII: PAYMENTS TO OWNER

18-VIII.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, OCHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and OCHA agree on a later date.

Except for discretionary vacancy payments, OCHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by OCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if OCHA determines that the vacancy is the owner's fault.

If OCHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, OCHA will notify the landlord of the amount of housing assistance payment that the owner must repay. OCHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of OCHA, the HAP contract may provide for vacancy payments to the owner. OCHA may only make vacancy payments if:

- The owner gives OCHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by OCHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by OCHA and must provide any information or substantiation required by OCHA to determine the amount of any vacancy payment.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified OCHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and OCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by OCHA within ten (10) business days of OCHA's request, no vacancy payments will be made.

18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by OCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in OCHA's notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by OCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by OCHA. The owner must immediately return any excess payment to the tenant.

Initial Certifications [Notice PIH 2019-23]

For the initial certification, OCHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. OCHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, OCHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

Tenant and OCHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by OCHA.

Likewise, OCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. OCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. OCHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, OCHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

OCHA will make utility reimbursements directly to the family.

18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23]

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of ten (10%) percent or twenty –five ($25) dollars purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

OCHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

OCHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. OCHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of ten (10%) percent or twenty-fve ($25) dollars as a result of the conversion as follows:

> Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: thirty-three (33%) percent of the difference between the most recently paid TTP and the

calculated PBV TTP (If the family was paying flat rent immediately prior to conversion, OCHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: fifty (50%) percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

OCHA will communicate OCHA's phase-in policy in writing to the family at the time OCHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

18.VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

Chapter 19

SPECIAL PURPOSE VOUCHERS

INTRODUCTION

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. OCHA's special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Emergency Housing Vouchers

OCHA will administer the following types of special purpose vouchers: Family Unification Program (FUP), Veterans Affairs Supportive Housing (VASH), Mainstream, Non-Elderly Disabled (NED), and Emergency Housing Vouchers (EHV)

This chapter describes HUD regulations and OCHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into eight (8) sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Veterans Affairs Supportive Housing (VASH)

Part III: Mainstream voucher program

Part IV: Non-Elderly Disabled (NED) vouchers

Part V: Homeownership

Part VI: Project Access

Part VII: Continuum of Care (COC)

Temporary Policy Supplement (TPS): Emergency Housing Vouchers (EHV)

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

PART I: FAMILY UNIFICATION PROGRAM (FUP)

19-I.A. PROGRAM OVERVIEW

Overview

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. OCHA administers the program to provide vouchers to FUP families.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

In order to administer the program, OCHA must also form a partnership with a local PCWA who is responsible for determining if the family or youth meets FUP eligibility requirements and referring them to OCHA. Once the referral is received, OCHA is responsible for placing the FUP family on OCHA's waiting list and determining whether they are eligible to receive assistance under OCHA's HCV program.

Assigning Vouchers [FUP FAQs]

OCHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP families. OCHA will serve all referrals that meet program eligibility requirements, up to OCHA's FUP voucher allocation of sixty-one (61).

19-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)

Families do not apply directly to OCHA for FUP vouchers. They are instead referred by the Public Child Welfare Agency (PCWA) of the State of Oklahoma which is the Department of Human Services Oklahoma County Child Welfare Unit with whom OCHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families to OCHA.

HUD strongly encourages OCHA and the PCWA to make decisions collaboratively on the administration of the program and to maintain open and continuous communication.

19-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing;
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family;
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;
  - Does not have electricity, or has inadequate or unsafe electrical service;
  - Does not have a safe or adequate source of heat;
  - Should, but does not, have a kitchen;
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family;
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure.
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care.
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability.
- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with OCHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent.

19-I.D. REFERRALS AND WAITING LIST MANAGEMENT

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families within the agency's caseload and make referrals to OCHA. The PCWA must certify that the FUP applicants they refer to OCHA meet FUP eligibility requirements. OCHA is not required to maintain full documentation that demonstrates the family's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

OCHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

OCHA must serve any referrals (families) that meet all program eligibility requirements. If OCHA determines that it has received a sufficient number of referrals from the PCWA so that OCHA will be able to lease all FUP vouchers awarded, OCHA may request that the PCWA suspend transmission of referrals. If OCHA determines that additional referrals will be needed after it has made such a request, OCHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement

A family that is already participating in the regular HCV program cannot be transferred to an FUP voucher.

Once a referral is made, OCHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on OCHA's HCV waiting list. Applicants already on OCHA's HCV waiting list will receive the FUP preference (see Section 4-III.C., Selection Method of this administrative plan). Applicants not already on OCHA's HCV waiting list must be placed on the HCV waiting list.

If OCHA's HCV waiting list is closed, OCHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, OCHA may open its waiting list solely for FUP applicants, but this information must be included in OCHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

Waiting List Selection

OCHA selects FUP-eligible families based on OCHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

19-I.E. OCHA HCV ELIGIBILITY DETERMINATION

Once an FUP-eligible family is selected from the HCV waiting list, OCHA must determine whether the family meets HCV program eligibility requirements. Applicants must be eligible under FUP family eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to OCHA on the family's criminal history.

Additional FUP Eligibility Factors

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, OCHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before OCHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, OCHA must not execute the HAP contract, as the family is no longer FUP-eligible.

19.I.F. LEASE UP [FR Notice 1/24/22]

Once OCHA determines that the family meets HCV eligibility requirements, the family will be issued an FUP voucher in accordance with OCHA policies.

Eligible applicants will be notified by OCHA in writing or e-mail following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with OCHA policies in Part I of Chapter 5 of this administrative plan

Once the family locate a unit, OCHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and OCHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

19-I.G. TERMINATION OF ASSISTANCE

General Requirements

Terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of an FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with OCHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on OCHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, OCHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

If OCHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, OCHA will issue the family the next available regular HCV voucher after those being issued to priority families.

9-I.H. FUP PORTABILITY

Portability for a FUP family is handled in the same way as for a regular HCV family. OCHA may not restrict or deny portability for an FUP family for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FUP family does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of OCHA, the voucher is still considered an FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, an FUP voucher becomes available to OCHA.

19-I.I. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 5/7/24; 24 CFR 983.6(d)(2); 983.54(c); 983.262(c) and (e); and FR Notice 1/24/22]

OCHA may project-base FUP vouchers without HUD approval in accordance with all statutory and regulatory requirements for the PBV program.

PART II: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

19-II.A. PROGRAM OVERVIEW

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to OCHA;
  - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.

- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to OCHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and OCHA's administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow OCHA to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021, and then again in 2024. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program requirements are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, OCHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

19-II.B. REFERRALS [FR Notice 8/31/24 and HUD-VASH Qs and As]

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to OCHA for determination of program eligibility and voucher issuance. OCHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. OCHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

19-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 8/13/24]

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, OCHA does not have authority to determine family eligibility in accordance with HCV program rules and OCHA policies. The only reasons for denial of assistance by OCHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

Social Security Numbers

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, OCHA must use available flexibilities in accordance with 24 CFR 5.216(g)(1)(iii) to accept self-certification of SSNs and at least one third-party document, such as a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual in the absence of other documentation.

In the case of the homeless veteran, OCHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN if these forms are available and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

Proof of Age

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other OCHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

Photo Identification

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

Income Eligibility [FR Notice 8/13/24]

With some exceptions, OCHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. Low-income families (80 percent of AMI) are eligible for assistance under VASH, and PHAs may not condition eligibility based on additional eligibility criteria specified in its administrative plan. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for assistance.

The following alternative requirements related to income apply to VASH families:

- OCHA must determine the applicant's annual income for purposes of income eligibility by excluding all VA service-connected benefits received by the applicant. This special income exclusion only applies to the definition of annual income for purposes of determining income eligibility. If the HUD-VASH applicant qualifies as a low-income family under the alternative requirement, the VA service-connected benefits (with the exception of the normally excluded deferred VA disability payments under 24 CFR 5.609(b)(16) and the payments related to aid and attendance under 24 CFR 5.609(b)(17)) must still be included as annual income when calculating the family's adjusted income. In other words, the VA service-connected disability benefits are excluded for purposes of determining income eligibility but included for purposes of calculating the family's total tenant payment (TTP), housing assistance payment (HAP), and family share.

- When a veteran family reports that they have zero income, OCHA must accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to verify the family is indeed zero income. The self-certification does not need to be notarized. OCHA must verify families' income in the Enterprise Income Verification (EIV) system within 120 days after admission. OCHA may not deny zero income families.

- Regardless of OCHA policy, in determining compliance with the asset limitation at admission, for the VASH program, OCHA must accept a self-certification by the family that the family's total assets are equal to or less than the HUD-published asset limitation amount (adjusted annually) and that the family does not have any present ownership interest in real property, without taking additional steps to verify the accuracy of the declaration.

- OCHA must not enforce the asset limitation for VASH families at reexamination.

- In addition, because there needs to be a monthly housing assistance payment (HAP) in order to enter into a HAP contract on behalf of a tenant-based voucher family, the utilization of tenant-based VASH assistance by families determined income-eligible is limited to those areas where the family's (TTP) is less than the applicable payment standard or exception payment standard (including any VASH-specific exception payment standard established by OCHA). The family must select a unit with a gross rent that is above the family's TTP in order to lease a unit with the tenant-based VASH voucher.

While income-targeting does not apply to VASH vouchers, OCHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

Minimum Rent [FR Notice 8/13/24]

OCHA must consider hardship circumstances before charging a minimum rent in accordance with 24 CFR 5.630(b). OCHA may choose to charge a lower minimum rent (including a minimum rent of $0) specifically for their VASH program regardless of the minimum rent policies established in their administrative plan for other HCV families.

OCHA will establish a minimum rent of $0 for VASH families.

Screening [FR Notice 8/13/24]

OCHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: OCHA is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and OCHA policies on how sex offender screenings will be conducted, OCHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [FR Notice 8/13/24].

Denial of Assistance [Notice PIH 2008-37]

Once a veteran is referred by the VAMC, OCHA must either issue a voucher or deny assistance. If OCHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

19-II.D. CHANGES IN FAMILY COMPOSITION

Adding Family Members [FR Notice 8/13/24]

When adding a family member after the family has been admitted to the program, OCHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, OCHA must approve additional family members and will apply its regular screening criteria in doing so.

Remaining Family Members [HUD-VASH Qs and As]

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. OCHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

Family Break Up [HUD-VASH Qs and As]

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides OCHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

19-II.E. LEASING [FR Notice 8/13/24]

Waiting List

OCHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

Exception Payment Standards [FR Notice 8/13/24]

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows OCHA to establish a HUD-VASH exception payment standard. OCHA may go up to but no higher than 120 percent of the published metropolitan area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families.

PHAs who want to establish a VASH exception payment standard over 120 percent are allowed but must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16 or any successor notices.

Exception payment standards implemented by OCHA under this section also apply in determining rents under 24 CFR 983.301(b) for PBV projects only when the project is comprised solely of units exclusively made available to VASH families.

OCHA may also establish an exception payment standard up to 140 percent of the published FMR or SAFMR only to be applied if required as a reasonable accommodation for a family that includes a person with a disability. Any unit approved under an exception payment standard must still meet reasonable rent requirements. OCHA may use a payment standard that is greater than 140 percent of FMR as a reasonable accommodation for a person with a disability, but only with HUD approval.

Voucher Issuance [FR Notice 8/13/24]

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have a search term of at least 120 days. This applies both to the initial search term and moves. OCHA policies on extensions as outlined in Section 5-II.E. will apply.

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless OCHA grants an extension.

OCHA must track issuance of HCVs for families referred by the VAMC or DSP in HUD systems as required in FR Notice 8/13/24.

Special Housing Types [FR Notice 8/13/24]

OCHA must permit VASH clients to use the following special housing types for tenant-based VASH assistance, regardless of whether these types are permitted in their administrative plan for other families:

- Single room occupancy (SRO);
- Congregate housing;
- Group home;
- Shared housing; and
- Cooperative housing.

Initial Lease Term [FR Notice 8/13/24]

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, OCHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

Ineligible Housing [FR Notice 8/13/24]

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, OCHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

Pre-Inspections [FR Notice 8/13/24]

To expedite the leasing process, OCHA may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed inspection (without intervening occupancy) within 90 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units. All regulatory requirements pertaining to housing quality standards found at 24 CFR 5.703 apply to HUD-VASH.

To expedite the leasing process, OCHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a pre-inspection (without intervening occupancy) within 45 days of the date of the RFTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, OCHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

19-II.F. PORTABILITY [Notice PIH 2011-53 and FR Notice 8/13/24]

General Requirements

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, OCHA policies in Section 10-II.B. about nonresident applicants do not apply. A family that moves under the portability procedures must not be subject to rescreening by the receiving PHA.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability within the Initial VAMC or DSP's Catchment Area

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If OCHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill OCHA or absorb the family if it has a VASH voucher available to do so.
    - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill OCHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for OCHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMS or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, OCHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. OCHA must follow its emergency transfer plan (see Exhibit 16-3). OCHA may require verbal self-certification or a written request from a participant seeing a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

19-II.G. TERMINATION OF ASSISTANCE [FR Notice 8/13/24]

Prior to terminating VASH participants, HUD strongly encourages OCHA to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case.

This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to OCHA but could not be considered at the time of admission due to VASH program requirements. OCHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

There are two alternative requirements for termination of assistance for VASH participants.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP. However, OCHA may offer the family continued assistance through one of its regular vouchers or a PBV unit not exclusively made available for HUD-VASH.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, OCHA may offer the family continued HCV assistance through one of its regular vouchers. The decision to transfer assistance to a regular voucher must consider veteran preference and must be communicated to the VA prior to occurring. If the PHA has no voucher to offer, the family will retain its VASH voucher, or PBV unit, until such time as the PHA has an available voucher (or PBV unit not exclusively made available for VASH) for the family. If OCHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as OCHA has an available voucher for the family.

Serious Violation of the Lease

The regulation at 24 CFR 982.552(b)(2) states that OCHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease. HUD waived this provision, and establishing the alternative requirement that OCHA may terminate program assistance in this case. Prior to terminating VASH participants for this reason, HUD strongly encourages OCHA to exercise their discretion under 24 CFR 982.552(c)(2) and consider all relevant circumstances of the specific case, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance.

VAWA [FR Notice 8/13/24]

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim should be given a regular HCV if one is available, and the perpetrator's VASH voucher should be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

19-II.H. PROJECT-BASING VASH VOUCHERS

General Requirements [Notice PIH 2017-21 and FR Notice 8/13/24]

OCHA is authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit. In the description of units in Exhibit A of the HAP contract, OCHA must indicate the number of units that will be exclusively made available to VASH families. OCHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a VASH PBV set-aside award.

If OCHA project-bases VASH vouchers, OCHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. OCHA may project-based VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. OCHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to OCHA and there is an available PBV unit that is not exclusively made available to VASH families, OCHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and OCHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

OCHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as OCHA first consults with the VAMC or DSP.

Additionally, OCHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under OCHA's program and project caps).

Policies for VASH PBV units will generally follow OCHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

Ineligible Units

Unlike in the regular PBV program, OCHA may opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to VASH families if the PBV project is either on the grounds of a VA facility or there are VASH supportive services provided on-site at the project.

Termination of Assistance

A VASH family's PBV assistance must be terminated for failure to participate in case management when required by the VA. However, OCHA may allow the veteran family to receive a regular (non-VASH) tenant-based voucher or PBV unit instead of the family's assistance being terminated. In this case, OCHA may:

- Substitute the family's unit on the PBV HAP contract for another unit (OCHA may, in conjunction with such substitution, add the original unit to the PBV HAP contract with a non-VASH voucher if it is possible to do so;
- Remove the unit from the PBV HAP contract so the family may remain with tenant-based assistance, if the family and the owner agree to use the tenant-based voucher in the unit; or
- Change the unit's status in the PBV HAP contract from a unit exclusively made available for VASH to a regular PBV unit, if doing so is allowable under program rules.

If OCHA will not allow the veteran to receive a regular (non-VASH) tenant-based voucher or PBV unit instead of the family's assistance being terminated, then upon notification by the VA of the family's failure to participate in VA-required case management, OCHA must provide the family a reasonable period of time (as established by OCHA) to vacate the unit.

If the family fails to participate in case management when required by the VA, OCHA will terminate the family's assistance. The family will have 120 days to vacate the unit. OCHA will terminate assistance to the family at the earlier of (1) the time the family vacates or (2) the expiration of the 120-day period. If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, OCHA will remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. OCHA may add the removed unit back onto the HAP contract after the ineligible family vacates the property.

Moves

If a VASH family is eligible to move from its PBV unit after a year of PBV assistance, OCHA will generally follow policies in Chapter 17. However, if there is no VASH tenant-based voucher available at the time the family requests to move, OCHA's actions depend on whether the family still requires case management.

- OCHA may require a family that still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days. If a HUD-VASH tenant-based voucher is still not available after 180 days, the family must be allowed to move using its VASH voucher as tenant-based assistance. Alternatively, OCHA may allow the family to move using its VASH voucher as tenant-based assistance without having to meet this 180-day waiting period. In either case, OCHA may either amend the PBV HAP contract to replace the assistance in the PBV unit with one of its regular vouchers if the unit is eligible for a regular PBV or OCHA and owner may agree to temporarily remove the unit from the HAP contract.
- If a VASH veteran has been determined to no longer require case management, OCHA must allow the family to move with the first available tenant-based voucher. If no VASH voucher is immediately available, OCHA may not require the family to wait for a VASH voucher to become available.

Wrong-Sized or Accessible Units

If OCHA determines that a VASH family is occupying a wrong-size PBV unit or a PBV unit with accessibility features that the family does not require and the PBV unit is needed by a family that requires the accessibility features, OCHA must notify the family and the owner within 30 days of OCHA's determination. OCHA's offer of continued housing assistance (that must be made within 60 days of OCHA's determination) must be in the form of either a VASH tenant-based voucher or another VASH PBV unit. If no VASH assistance is available for OCHA to offer within 60 days of OCHA's determination, OCHA must remove the wrong-sized or accessible unit from the HAP contract to make VASH voucher assistance available to the family.

Contract Terminations

The regulation at 24 CFR 983.206(b), which covers the required provision of tenant-based assistance and requires that the family may elect to use its tenant-based assistance to remain in the same project when a PBV HAP contract terminates or expires, does not apply to families issued a HUD-VASH tenant-based voucher under this circumstance. OCHA may use another voucher to add the unit removed under this alternative requirement to the HAP contract after the family vacates the property, in accordance with 24 CFR 983.207(b).

Rents

Contract rents may not be different based on whether the unit is a VASH PBV unit or a non-VASH PBV unit. In determining the rent to owner for the PBV project, if the cap on the amount of rent to owner under 24 CFR 983.301(b)(1) is lower for non-HUD-VASH units than it is for the HUD-VASH units (e.g., OCHA has established a HUD-VASH exception payment standard and there is either no exception payment standard or a lower exception payment standard for the regular HCV program for the area in question), that lower cap is applicable when setting the rent to owner for the PBV units in the project, including the HUD-VASH units.

Removing Units from the HAP Contract for Ineligible Families

OCHA and owner may also agree to temporarily remove a unit from the HAP contract in cases where a HUD-VASH eligible veteran has been identified by the VA as appropriate for a VASH PBV unit, but the veteran is not income eligible to receive voucher assistance or may not be selected for the PBV unit because the family's TTP exceeds the gross rent of the unit. Although the family would not be a program participant in the housing portion of the VASH program in such a case, the family would still benefit from the project's location on the grounds of a VA facility or from the VASH supportive services on-site at the project, while the VASH voucher would be available to assist another VASH family. OCHA and owner may agree to add a VASH voucher back onto the PBV HAP contract if the family's income subsequently decreased to the point that there would be a HAP or when the family vacates the unit.

Zero HAP Families

Under normal PBV requirements, the PHA may select an occupied unit to be included under a PBV HAP contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201, and the TTP for the family is less than the gross rent for the unit. Furthermore, in selecting a family for an available PBV unit, typically the PHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP. However, if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided onsite at the project, the PHA may opt to select a unit occupied by a zero HAP VASH eligible family or admit a zero HAP VASH family to a unit if such unit is made exclusively available to VASH families. Until such time that the VASH family's TTP falls below the gross rent, the family is responsible for paying the entire rent to the owner in addition to being responsible for paying all tenant-supplied utilities. During any period that the family's TTP falls below the gross rent, normal PBV requirements apply.

Further, under normally applicable rules, units occupied by families whose incomes have increased during their tenancy resulting in their TTP equaling the gross rent (zero HAP) must be removed from the HAP contract 180 days following the last housing assistance payment to the owner on the family's behalf. These regulations do not apply to zero HAP families admitted to the PBV project under this waiver and alternative requirement because there is no last housing assistance payment that would trigger the unit removal date of 180 days. As an alternative requirement, OCHA has the option of removing the unit in which the zero HAP family resides from the HAP contract, but no earlier than 180 days from the start of the family PBV tenancy. If OCHA exercises this option, the family may not be required to move from the unit as a consequence and continues to receive the VASH supportive services. If the project is fully assisted, OCHA may reinstate the unit removed to the HAP contract after the family either vacates the unit or their income decreases to the point that there would be a HAP. If the project is partially assisted, OCHA may substitute a different unit for the unit removed from the HAP contact when the first eligible substitute unit becomes available. Alternatively, OCHA may choose to simply leave the unit on the HAP contract while the zero HAP family continues to reside there.

Proposal/Project Selection

PBV proposal and/or project selection for VASH must follow all regular proposal and/or project selection regulations, with one exception. HUD permits noncompetitive selection of one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility. Note that the method of project selection must comply with all other requirements under 24 CFR 983.51, including that OCHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan and to ensure any project selection is consistent with OCHA administrative plan.

Failure to Participate in Case Management [FR Notice 8/13/24]

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, OCHA must provide the family a reasonable time period to vacate the unit. OCHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, OCHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 30 days from the date of the notice to move out of the unit.

OCHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, OCHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. OCHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

Moves [HUD-VASH Qs and As, FR Notice 8/13/24]

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, OCHA may require the family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, OCHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, OCHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless OCHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, OCHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

PART III: MAINSTREAM VOUCHER PROGRAM

19-III.A. PROGRAM OVERVIEW [Notice PIH 2020-01 and Notice PIH 2024-30]

Mainstream vouchers assist non-elderly persons with disabilities and their families (particularly those transitioning out of institutions or at serious risk of institutionalization) in the form of either project-based or tenant-based voucher assistance.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funding and reporting for Mainstream vouchers is separate from the HCV program. Funds for Mainstream vouchers may be recaptured and reallocated if OCHA does not comply with all program requirements or fails to maintain a utilization rate of eighty (80%) percent for OCHA's Mainstream vouchers.

The Consolidated Appropriations Act, 2024 (Public Law 118-42) authorized HUD to establish waivers and alternative requirements for Mainstream Vouchers related to the administration of waiting lists, local preferences, and the initial term and extensions of tenant-based vouchers. HUD is not permitted to waive requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment. Prior to this, Mainstream vouchers follow the same program requirements as standard vouchers.

19-III.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

OCHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

19-III.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]

OCHA is encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

OCHA has no formal or informal partnership with any organization regarding the Mainstream program.

19-III.D. WAITING LIST ADMINISTRATION [Notice PIH 2024-30]

General Waiting List Requirements [Notice PIH 2020-01]

For Mainstream vouchers, HUD has waived 24 CFR 982.204(f), which requires one waiting list for the HCV program and allows OCHA the discretion to operate a Mainstream voucher waiting list that is separate from the general HCV waiting list. This is optional.

If OCHA chooses to create a separate Mainstream waiting list, OCHA must notify families on the HCV waiting list of the separate Mainstream waiting list and provide an opportunity for families on the HCV list to be placed on the Mainstream list.

If OCHA does not pursue the optional waiver to maintain a separate Mainstream waiting list, OCHA must still ensure program access for individuals with disabilities.

Upon turnover, vouchers must be provided to Mainstream-eligible families.

OCHA will establish a separate waiting list for the Mainstream program.

All OCHA policies on opening, closing, and updating the waiting list in Chapter 4 will also apply to the Mainstream waiting list.

19-III.E. PREFERENCES [Notice PIH 2024-30]

While OCHA may establish local preferences based on local housing needs and priorities in accordance with 24 CFR 982.207(a), HCV regulations do not permit OCHA to establish separate preferences for Mainstream voucher applicants. HUD waived 24 CFR 982.207(a)(1) and allows OCHA to establish separate preferences for Mainstream voucher applicants. However, OCHA may not apply a residency preference to Mainstream voucher applicants.

PHAs with outstanding Olmstead-related litigation or enforcement activities, as well as those undertaking affirmative Olmstead planning and implementation efforts, who wish to establish preferences that target individuals with specific disabilities must request HUD approval. The process for requesting approval for a remedial preference targeting individuals with specific disabilities is outlined in Notice PIH 2012-31.

Regardless of whether OCHA chooses to adopt separate Mainstream voucher preferences, if OCHA claimed points for a preference in a NOFO application for Mainstream vouchers, OCHA must adopt a preference for at least one of the targeted groups identified in the NOFO. OCHA may choose to apply NOFO preferences to the entire HCV waiting list or only to Mainstream voucher applicants as a separate Mainstream voucher preference.

OCHA may use either date and time of application or a drawing or other random choice technique in selecting families from the Mainstream waiting list among applicants with the same preference status in accordance with OCHA's administrative plan.

OCHA did not claim a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA.

OCHA will not offer any preferences on its Mainstream waiting list.

19-III.F. VOUCHER ISSUANCE

Initial Search Term [Notice PIH 2024-30]

For Mainstream vouchers, HUD waived 24 CFR 982.303(a), which requires an initial search term of at least 60 days, and established an alternative requirement that the initial search term for a Mainstream voucher be at least 120 days. The initial 120-day term also applies when a family chooses to move to a new unit with continued assistance inside or outside OCHA's jurisdiction. When issuing a Mainstream voucher, OCHA also must provide a current listing of available accessible units known to OCHA and, if necessary, otherwise assist the family in identifying an accessible unit.

The initial voucher term for all Mainstream vouchers, including those issued when a family wishes to exercise portability, will be 120 days.

Voucher Extension [Notice PIH 2024-30]

OCHA's administrative plan must describe OCHA's policies for granting extensions to the initial 120-day voucher term and provide clear instructions to families on the procedures for requesting an extension. If a family requires additional time, OCHA is required to provide an extension as a reasonable accommodation.

OCHA must adopt an extension policy for Mainstream vouchers that includes the following:

- Each extension must be for a minimum of 90 days;
- OCHA must approve the first extension request, regardless of how the request is made (written or verbal) or when it is made, as long as the request is made on or before the expiration date of the voucher and is consistent with applicable requirements (subsequent requests should be processed in accordance with OCHA's administrative plan); and
- OCHA must, on at least one occasion after voucher issuance, notify the family prior to the expiration of the initial term to remind them of the expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.

As part of its search extension policy, OCHA may not restrict a first extension approval to certain circumstances or require documentation from applicants. For all extension requests, a written or verbal request is sufficient. In providing notice to families of the expiration date and extension request process, OCHA must ensure effective communication with persons with disabilities, including those with vision, hearing, speech, intellectual or other developmental disabilities, or any other communication-related disabilities. OCHA must approve all extensions made as a reasonable accommodation, and OCHA must provide this information during the family briefing.

At least 30 days prior to the expiration of the initial term of the voucher, OCHA will contact the family to remind them of the expiration date of their voucher, the process for requesting an extension, and to inquire if the family needs assistance with their housing search. Depending on the family's preferred method of communication, OCHA may contact the family via telephone, text message, email, or other accessible communication method. OCHA will ensure effective communication with persons with disabilities, including those with vision, hearing, speech, intellectual or other developmental disabilities, or any other communication-related disabilities.

Families may request an extension, either orally or in writing, at any time prior to the expiration of the family's voucher. All requests for extensions will automatically be granted without the requirement for the family to provide documentation. The initial extension period will be for 90 days.

If the family requires additional extensions beyond 90 days, the family may request additional extensions, either orally or in writing, at any time prior to the expiration of the extended voucher term. All subsequent extensions will also be for a period of 90 days and will not require the family to meet certain circumstances or provide documentation. Each time the family requests an extension, OCHA will inquire if the family needs assistance with their housing search and will provide a current listing of available accessible units known to OCHA.

19-III.G. PORTABILITY [Notice PIH 2020-01]

Mainstream voucher participants are eligible for portability under standard portability rules and all OCHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill OCHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at OCHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

19-III.H. PROJECT-BASING MAINSTREAM VOUCHERS

OCHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and OCHA policies in Chapter 17. OCHA is responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A

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PART IV: NON-ELDERLY DISABLED (NED) VOUCHERS

19-IV.A. PROGRAM OVERVIEW [Notice PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. OCHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- **Category 2** vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose.

- The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.
- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA's HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.
- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream) vouchers** enable non-elderly disabled families on the PHA's waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA's voucher waiting list.

19-IV.B. ELIGIBLE POPULATION

General Requirements [Notice PIH 2013-19]

Only eligible families whose head of household, spouse, or co-head is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

OCHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

NED Category 2 [Notice PIH 2013-19]

In addition to being eligible for OCHA's regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family's head, spouse, co-head, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

OCHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

19-IV.C. WAITING LIST

General Requirements [Notice PIH 2013-19]

Families must be selected for NED vouchers from OCHA's waiting list in accordance with all applicable regulations and OCHA policies in Chapter 4.

Regardless of the number of NED families OCHA is required to serve, the next family on the waiting list must be served. Further, OCHA may not skip over NED-eligible families on the waiting list because OCHA is serving the required number of NED families.

NED Category 2 Referrals [NED Category 2 FAQs]

For NED Category 2 families, the partnering agency may make referrals of eligible families to OCHA for placement on the waiting list. OCHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, OCHA does not need to establish a preference in order to serve these families ahead of other families on OCHA's waiting list.

OCHA must accept applications from people living outside their jurisdictions or from people being referred from other Medicaid or MFP service agencies in their state.

If OCHA's waiting list is closed, OCHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, OCHA must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, OCHA must ensure that individuals living in eligible institutions are aware when OCHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

Reissuance of Turnover Vouchers [Notice PIH 2013-19]

All NED turnover vouchers must be reissued to the next NED family on OCHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on OCHA's waiting list. If there are no Category 2 families on OCHA's waiting list, OCHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can OCHA reissue the voucher to another Category 2 NED family on OCHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on OCHA's waiting list, and OCHA is under the same obligation to conduct outreach to Category 2 families if no such families are on OCHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time OCHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, OCHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV OCHA believes it is not practicable to assist NED families, OCHA must contact HUD.

19-IV.D. LEASE UP [Notice PIH 2013-19]

Voucher Term

While OCHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

All NED vouchers will have an initial term of sixty (60) calendar days.

All other PHA policies on extensions and suspension of vouchers in Section 5-II.E. will apply.

Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]

In general, OCHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, OCHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the HAP made by OCHA to the owner, and as long as the person does not need continual medical or nursing care.

19-IV.E. PORTABILITY

NED voucher participants are eligible for portability under standard portability rules and all OCHA policies regarding portability in Chapter 10, Part II apply to NED families. However, OCHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in OCHA's jurisdiction when they applied.

If neither the head of household nor the spouse or co-head of a NED applicant family had a domicile (legal residence) in OCHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within OCHA's jurisdiction for at least 12 months before requesting portability.

OCHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

PART V: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

19-V.A. OVERVIEW [24 CFR 982.625]

OCHA discontinued its homeownership (HOP) program effective May 31, 2012.

OCHA will continue to assist current homeowners by making a monthly homeownership assistance payment for a specified number of years.

OCHA will offer counseling on an ongoing basis as needed by the family.

The family will be required to continue to meet all HCV eligibility requirements including annual recertification.

OCHA will not provide any financial assistance towards the purchase of a home other than the monthly homeownership assistance. Additionally, the Oklahoma City Housing Authority accepts no responsibilities for any financial loss incurred by the client, lenders, or any other individuals throughout this process.

OCHA will approve a live-in aide if needed as a reasonable accommodation so that the program is usable by current participants with disabilities.

19-V.B. 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, OCHA will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to OCHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family executed a HCV and 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 attend and complete any additional homeownership and housing counseling as deemed necessary by OCHA;
- 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 OCHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by OCHA or HUD concerning any mortgage or other debt incurred to purchase the home, any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt and the nature of any such default), information on any satisfaction of payment of the mortgage debt and the family's homeownership expenses;
- The family must notify OCHA of any sale or other transfer of any interest in the home;
- The family must notify OCHA thirty (30) days before moving out of the home;
- The family must notify OCHA 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);
- All family members residing in the home must be approved by OCHA;
- Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members;
- The family must insure that all repairs are made to the dwelling;
- The family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt only by obtaining prior authorization from OCHA;
- OCHA may establish additional requirements for continuation of homeownership assistance for the family. The family must comply with such requirements.

19-V.C. 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 (15) years, if the initial mortgage incurred to finance purchase of the home has a term of twenty (20) years or longer; or
- Ten (10) years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least six (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.

19-V.D. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment will be paid while the family occupies the property and complies with the HCV program requirements.

The family must comply with reexaminations as outlined in Chapter 11. Failure to comply will result in termination as outlined in Chapter 12.

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, OCHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

OCHA may pay the homeownership assistance payments directly to the family, or at OCHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, OCHA will pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, OCHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

Homeownership expenses (not including cooperatives) only include amounts allowed by OCHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- OCHA will allow one (1%) percent the cost of the unit annually for maintenance expenses, major repairs and replacements;
- OCHA utility allowance for the home;
- Other allowable expenses including expenses for a reasonable accommodation to the elderly and disabled;
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

19-V.E. 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 OCHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill OCHA.

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 OCHA 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.

19-V.F. 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.

OCHA may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance;
- At any time, OCHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance;
- In accordance with OCHA's policy regarding number of moves within a 12-month period;

OCHA will deny the family permission to move to a new unit with continued voucher rental assistance if;

- The family defaulted on a 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.

19-V.G. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, OCHA 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).

OCHA may deny or terminate assistance for failure to comply with family obligations as outlined in Chapter 12 of this administrative plan.

OCHA 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.

OCHA will 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.

OCHA may, at its' discretion, issue the family a HCV if the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; the family has moved, or will move, from the home within the period established or approved by HUD; and the family must provide documentation to OCHA that the default was unavoidable by the family.

PART VI: PROJECT ACCESS

19-VI.A. OVERVIEW

The Project Access program is designed to assist non-elderly persons with disabilities in the transition from nursing homes back into the community. This is achieved by providing improved access to affordable housing and supportive services.

Unless noted below, all regulatory requirements and HUD directives regarding the HCV tenant-based program are applicable to Project Access vouchers, including the use of all HUD-required contracts and other forms.

19-VI.B. ELIGIBILITY

Applicants must be under sixty-two (62) years of age, disabled and transitioning from nursing home care back into the community.

PART VII: CONTINUUM OF CARE (COC)

19-VII.A. OVERVIEW

Continuum of Care (COC) is OCHA's Permanent Supportive Housing Program (SHP) funded under the City of Oklahoma City's Continuum of Care Homeless Assistance Grant with the intent to integrate housing with supportive services to persons with a disability who are transitioning out of homelessness and into a more stable, secure and dignified living environment.

19-VII.B. FAMILY ELIGIBILITY

- All COC eligible participants must be referred to OCHA from a SHP Partnering Agency;
- All COC eligible participants must meet the definition of a Disabled person which is defined as a person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. §423), or as defined in Chapter 3, Exhibit 3-1;
- All COC eligible participants must qualify as homeless according to the federal definition established in the U.S. Code Title 42, Section 11302.
- All COC eligible participants must apply and be eligible for admission to the HCV program.
- Decisions on other factors which usually lead to admission denial will be made on a case-by-case basis considering mitigating factors and the effect a denial would have on the client.

19-VII.C. SELECTION PREFERENCE

Preference will be given to approved COC applicants referred by and who will receive supportive services through OKC Metro Alliance, Inc./Firstep in support of twenty-four (24) dwelling units funded under grant OK56B702001.

If there are an insufficient number of approved COC applicants to support the twenty-four (24) dwelling units, OKC Metro Alliance, Inc./Firstep will have thirty (30) calendar days to make such referral before another approved COC applicant referred by another SHP Partnering Agency is selected.

19-VII.D. PERMANENT SUPPORTIVE HOUSING PROGRAM (SHP) PARTNERING AGENCIES

SHP Partnering Agencies include, but are not limited to the agencies listed, as follows:

- OKC Metro Alliance, Inc./Firstep;
- North Care Center for Behavioral and Social Services' Program for Assertive Care Treatment (PACT);
- Regional AIDS Intercommunity Network (RAIN);
- Family Recovery Counseling Center; and

- FOCIS Counseling Services, Inc.

Temporary Policy Supplement (TPS)

EMERGENCY HOUSING VOUCHERS (EHVs)

INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated $5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

OCHA may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that OCHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and OCHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

PART I: FUNDING

TPS-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other OCHA programs or vouchers. OCHA must maintain separate financial records from its regular HCV funding for all EHV funding.

Housing Assistance Payments (HAP) Funding

ARP funding obligated to OCHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to OCHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on OCHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

Administrative Fee and Funding

The EHV program provides administrative fee funding to OCHA for expenses that are not normally eligible under the HCV program, as well as fees designated for the cost of administering the EHV program generally.

The following types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - $400 per EHV allocated to OCHA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).
- **Issuing action fees are one-time fees once the voucher is initially leased:**
  - $100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
  - Issuing action fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
  - This fee may be used for any eligible administrative expenses related to EHVs.
- **Placement fees** support initial lease-up costs and the added cost and effort required to expedite leasing of EHVs:
  - $500 for each EHV family placed under a HAP contract effective within four (4) months of the effective date of the ACC funding increment; or
    a) $250 for each EHV family placed under a HAP contract effective after four (4) months but less than six (6) months after the effective date of the ACC funding increment.
    b) HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:
  - OCHA is allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees**, which are a one-time fee to support OCHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once OCHA's CACC is amended to reflect EHV funding.
  - The amount allocated is three thousand five hundred ($3,500) dollars for each EHV allocated.

TPS-I.B. SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The eligible uses for service fees include:

Housing search assistance, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and OCHA forms, and helping to expedite the EHV leasing process for the family.

Application fees/non-refundable administrative or processing fees/refundable application deposit assistance. OCHA may choose to assist the family with some or all these expenses.

Security deposit assistance. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. OCHA will pay the security deposit assistance directly to the owner.

Utility deposit assistance/utility arrears. OCHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. OCHA will pay the utility deposit assistance directly to the utility company. OCHA will require the utility supplier to return the utility deposit assistance to OCHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. OCHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to OCHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

Owner recruitment and outreach for EHVs. OCHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHVs. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

Owner incentive and/or retention payments. OCHA may make incentive and retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family as follows:

- An incentive payment may be made as a single payment at the beginning of a six (6) month assisted lease term up to two hundred ($200) dollars and a retention payment may be made up to two hundred ($200) dollars following the lease renewal; and
- An incentive payment may be made as a single payment at the beginning of a one (1) year lease term up to five hundred ($500) dollars and a retention payment may be made up to two hundred ($200) dollars following the lease renewal.

Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

Moving expenses. OCHA may provide up to three hundred ($300) dollars assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. OCHA will not provide moving expenses assistance for subsequent moves.

Essential household items. OCHA may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

Renter's insurance if required by the lease. OCHA may choose to assist the family with some or all this cost.

Any services fee assistance that is returned to OCHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when OCHA's EHV program ends must be remitted to HUD.

PART II: PARTNERING AGENCIES

TPS-II.A. CONTINUUM OF CARE (CoC)

OCHA has accepted an allocation of EHVs and are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHVs.

OCHA has entered into an MOU with the City of Oklahoma City Continuum of Care (CoC).

TPS-II.B. OTHER PARTNERING ORGANIZATIONS

OCHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If OCHA chooses to partner with such agencies, OCHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between OCHA and CoC.

TPS-II.C. REFERRALS

CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with OCHA is to make direct referrals of qualifying individuals and families to OCHA. OCHA must generally refer a family that is seeking EHV assistance directly from OCHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHVs. The CoC or other direct referral partner must provide supporting documentation to OCHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

The CoC or partnering agency must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to OCHA. The CoC or other partnering agency must certify that the EHV applicants they refer to OCHA meet at least one of the four EHV eligibility criteria. OCHA will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless service providers may, but are not required to, use the certification form found in Notice PIH 2021-15. Victim services providers may, but are not required to, use the certification form found in Notice PIH 2021-15 when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, OCHA and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

OCHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide OCHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

Offers of Assistance with CoC Referral

OCHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP) in Chapter 16.

OCHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to OCHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time OCHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or OCHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit OCHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

PART III: WAITING LIST MANAGEMENT

TPS-III. A. HCV WAITING LIST

The regulation that requires OCHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to OCHA's EHV program. Direct referrals are not added to OCHA's HCV waiting list.

OCHA must inform families on the HCV waiting list of the availability of EHVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

OCHA will email and post on their website information about the EHV program for families on OCHA's HCV waiting list. The notice will:

- Describe the eligible populations to which EHVs are limited
- Clearly state that the availability of these EHVs is managed through a direct referral process

- Advise the family to contact the CoC (or any other OCHA referral partner, if applicable) if the family believes they may be eligible for EHV assistance

OCHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. OCHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

TPS-III.B. EHV WAITING LIST

The HCV regulations requiring OCHA to operate a single waiting list for admission to the HCV program do not apply to OCHA operating the EHV program. Instead, OCHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to OCHA policies in Chapter 4 regarding opening and closing the HCV waiting list. OCHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

TPS-III.C. PREFERENCES

HCV Waiting List Preferences

If local preferences are established by OCHA for HCV, they do not apply to EHVs. However, if OCHA has a homeless preference or a VAWA preference for the HCV waiting list, OCHA must adopt additional policies related to EHVs in accordance with Notice PIH 2021-15.

EHV Waiting List Preferences

With the exception of a residency preference, OCHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHVs. OCHA may, however, choose to not establish any local preferences for the EHV waiting list.

No local preferences have been established for the EHV waiting list.

PART IV: FAMILY ELIGIBILITY

TPS-IV.A. OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to OCHA. OCHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

TPS-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBLITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to OCHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. OCHA must retain this documentation as part of the family's file.

TPS-IV.C. OCHA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, OCHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, OCHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

OCHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

Permissive Denial

Notice PIH 2021-15 lists permissive prohibitions for which OCHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If OCHA intends to establish permissive prohibition policies for EHV applicants, OCHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

OCHA will establish the following permissive prohibitions:

If OCHA determines that any household member is currently engaged in, or has engaged in within the previous twelve (12) months:

- Violent criminal activity
- Other 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
- If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If the family engaged in or threatened abusive or violent behavior toward OCHA personnel.

OCHA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, OCHA will <u>not</u> deny an EHV applicant admission regardless of whether:

- Any member of the family has been evicted from federally assisted housing in the last five (5) years;
- OCHA has ever terminated assistance under the program for any member of the family;
- The family currently owes rent or other amounts to OCHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;
- The family would otherwise be prohibited admission under alcohol abuse standards established by OCHA in accordance with 24 CFR 982.553(a)(3);
- OCHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

TPS-IV.D. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, OCHA may consider self-certification the highest form of income verification at admission. As such, OCHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the sixty (60) day period prior to admission or voucher issuance but is not dated within sixty (60) days of OCHA's request.

Any documents used for verification must be the original (not photocopies) and dated within the sixty (60)day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to OCHA and must be signed by the family member whose information or status is being verified.

OCHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. OCHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. OCHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, OCHA will terminate the family's assistance in accordance with the policies in Chapter 12.

Recently Conducted Income Determinations

OCHA may accept income calculations and verifications from third-party providers or from an examination that OCHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six (6) months; and
- The family certifies there has been no change in income or family composition in the interim.

OCHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to OCHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination OCHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and OCHA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to OCHA under this waiver and alternative requirement, OCHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within ninety (90) days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within sixty (60) days of the EIV Income or IVT Report dates.

Prior to admission, OCHA must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with OCHA policies in Chapter 3.

If OCHA later determines that an ineligible family received assistance, OCHA must take steps to terminate that family from the program in accordance with Chapter 12.

TPS-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the EHV program, OCHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, OCHA may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination.

As an alternative requirement, such individuals must provide the required documentation within one hundred eighty (180) days of admission to be eligible for continued assistance, pending verification, unless OCHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

OCHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within one hundred eighty (180) days of admission. OCHA may provide an additional sixty (60) day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If OCHA determines that an ineligible family received assistance, OCHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

TPS-IV.F. AGE AND DISABILITY VERIFICATION

OCHA may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, OCHA must obtain a higher level of verification within ninety (90) days of admission or verify the information in EIV.

OCHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to OCHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within ninety (90) days of admission, OCHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. OCHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If OCHA determines that an ineligible family received assistance, OCHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

TPS-IV.G. INCOME TARGETING

OCHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and OCHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. OCHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

PART V: HOUSING SEARCH AND LEASING

TPS-V.A. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least sixty (60) days, EHV vouchers must have an initial search term of at least one hundred twenty (120) days. OCHA policies on extensions as outlined in Section 5-II.E. will apply.

The family must submit a Request for Tenancy Approval and proposed lease within the one hundred twenty (120)-day period unless OCHA grants an extension.

TPS-V.B. HOUSING SEARCH ASSISTANCE

OCHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by OCHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family

As identified in the MOU between OCHA and CoC, the following housing search assistance will be provided to each EHV family:

OCHA will:

- Conduct owner outreach in accordance with policies in Chapter 13
- Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter

The CoC will:

- Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods
- Provide transportation assistance and directions to potential units
- Assist the family with the completion of rental applications and PHA forms

TPS-V.C. HQS PRE-INSPECTIONS

To expedite the leasing process, OCHA may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within forty-five (45) days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, OCHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

TPS-V.D. INITIAL LEASE TERM

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than twelve (12) months, regardless of OCHA policy in Section 9-I.E., Term of Assisted Tenancy.

TPS-V.E. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHVs. Exceptions are addressed below.

Nonresident Applicants

Under EHV, applicant families may move under portability even if the family did not have legal residency in OCHA's jurisdiction when they applied, regardless of OCHA's policy in Section 10-II.B.

Billing and Absorption

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHVs under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHVs under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill OCHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills OCHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill OCHA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, OCHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

OCHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

For limited English proficient (LEP) applicants, OCHA will provide interpretation services in accordance with OCHA's LEP plan (See Chapter 2).

Coordination of Services

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

For EHV families who are exercising portability, when OCHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, OCHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that OCHA may provide to the receiving PHA on behalf of the family.

Services Fee

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by OCHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or one thousand seven hundred fifty ($1,750) dollars, unless OCHA and the receiving PHA mutually agree to change the one thousand seven hundred fifty ($1,750) dollar cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with OCHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by OCHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHVs, the receiving PHA may use its own services fee and may be reimbursed by OCHA, or OCHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHVs, OCHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to OCHA.

Placement Fee/Issuance Reporting Fee

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuing reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills OCHA or absorbs the family into its own program at initial lease-up. OCHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

TPS-V.F. PAYMENT STANDARDS

Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, OCHA may, but is not required to, establish separate higher payment standards for EHVs. Lower EHV payment standards are not permitted. If OCHA is increasing the regular HCV payment standard, OCHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if OCHA chooses to establish higher payments standards for EHVs, HUD has provided other regulatory waivers:

- Defining the "basic range" for payment standards as between ninety (90%) and one hundred twenty (120%) percent of the published Fair Market Rent (FMR) for the unit size (rather than ninety (90%) to one hundred ten (110%) percent).
- Allowing OCHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. OCHA may establish an exception payment standard up to one hundred twenty (120%) percent (as opposed to one hundred ten (110%) percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
    - OCHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

OCHA will not establish a higher payment standard amount for EHVs. OCHA will use the same payment standards for HCV and EHV.

Rent Reasonableness

All rent reasonableness requirements apply to EHV units, regardless of whether OCHA has established an alternative or exception EHV payment standard.

Increases in Payment Standards

The requirement that OCHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. OCHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

OCHA will not establish an alternative policy for increases in the payment standard. OCHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

TPS-V.G. TERMINATION OF VOUCHERS

After September 30, 2023, OCHA may not reissue EHVs when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, OCHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHVs under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHVs that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct OCHA, who is administering EHVs to cease leasing any unleased EHVs if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to OCHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to OCHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to OCHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHVs are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHVs and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

OCHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

OCHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHVs in accordance with the HCV program requirements at 24 CFR 982.158.

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)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office)
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
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
IVT	Income Validation Tool
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)
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
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
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
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 individuals with physical handicaps.

Adjusted Income- Annual income, less allowable HUD deductions.

Adjusted Annual Income- Same as Adjusted Income.

Administrative fee-Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative fee reserve (formerly "operating reserve")- Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

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 twelve (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 §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.

Budget authority- An amount authorized and appropriated by the Congress for payment to HAs 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 eighteen (18) years of age.

Child care expenses- Amounts anticipated to be paid by the family for the care of children under thirteen (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 their 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.

Co-head- An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space- In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match- The automated comparison of data bases 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 §982.606 to §982.609.

Contiguous MSA- In portability (under subpart H of part 982): A 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- (See Housing Assistance Payments Contract.)

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 §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 eighteen (18) years of age, or is a person with a disability, or is a full-time student.

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, spouse, or sole member is a person with disabilities; or 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.

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 §5.603(c).

Elderly family- A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two (2) or more persons who are at least sixty-two (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 sixty-two (62) years of age.

Eligible Family - A family that is income eligible and meets the other requirements of the 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 to evidence 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 thirty (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 thirty (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- means 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 within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

Family share- The portion of rent and utilities paid by the family. For calculation of family share, see §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- 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 (2) to twelve (12) persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap- Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense- See "Disability Assistance Expense."

HAP contract- Housing assistance payments contract. (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.

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)- *A* State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

Housing Quality Standards- The HUD minimum quality standards for housing assisted under the voucher program.

HUD- The Department of Housing and Urban Development.

Imputed Asset- Asset disposed of for less than Fair Market Value during two (2) years preceding examination or reexamination.

Imputed Asset Income- The OCHA-established passbook rate multiplied by the total cash value of assets. Calculation 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- 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.

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.

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 their representative or the managing agent or their 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 eighty (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 eighty (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 §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 §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 three (3%) percent of annual income.

Merger Date- October 1, 1999.

Minor- A member of the family household other than the family head or spouse, who is under eighteen (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 fifty (50) years of age but below the age of sixty-two (62); or two (2) or more persons, who are at least fifty (50) years of age but below the age of sixty-two (62), living together; or one (1) or more persons who are at least fifty (50) years of age but below the age of sixty-two (62) living with one (1) 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 (2) 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).

Persons With Disabilities- A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with Handicaps"

Portability- Renting a dwelling unit with 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.

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 Section 8 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.

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.

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 twelve (12) months if there are no additional changes to be reported.

Remaining Member of Tenant Family- Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age forty-seven (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 ("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- *A*ll 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- is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §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 (2) 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 §982.615 to §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 §982.602 to §982.605.

Small rural public housing agency (PHA)- Section 38 defines the term "small public housing agency" as a public housing agency "for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer" and "that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations." After consideration of the public comments discussed above, HUD is interpreting "predominantly operates in a rural area" to mean a small PHA that:

(1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or

(2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

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 whether the request has been approved or denied in writing. This practice is also called "tolling".

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.

Vacancy Loss Payments- (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for eighty (80%) percent of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family- A low-income family whose annual income does not exceed fifty (50%) 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 fifty (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 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 (24 CFR 984.103), "welfare assistance" includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.