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## **Chapter 1**

### **STATEMENT OF POLICIES AND OBJECTIVES**

#### **INTRODUCTION**

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Certificate and Voucher Programs, are described in and implemented through this Administrative Plan. QHWRA of 1998 & Section 8 Tenant Based Assistance Statutory Merger of Certification & Voucher program resulting in the new 'Housing Choice Voucher.'

Administration of the Section 8 Program and the functions and responsibilities of the Housing Authority (HA) staff shall be in compliance with the HA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

#### **A. LOCAL OBJECTIVES**

The Section 8 Program is designed to achieve three major objectives:

1. To provide decent, safe, and sanitary housing for very low-income families while maintaining their rent payments at an affordable level.
2. To promote freedom of housing choice and spatial deconcentration of very low-income families of all races and ethnic backgrounds.
3. To provide an incentive to private property owners to rent to very low-income families by offering timely assistance payments.

In addition, the HA have the following goals for the program:

1. To fully utilize HUD funds in order to assist as many low-income families as possible, thereby assisting the local economy by increasing the occupancy rate and the amount of money flowing to the community.
2. To encourage self sufficiency of participant families.

## **B. PURPOSE OF THE PLAN**

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local objectives.

The HA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The original Plan and any changes must be approved by the Board of Commissioners of the agency and a copy provided to HUD.

## **C. FAIR HOUSING POLICY**

It is the policy of the Housing Authority to 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.

The HA shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the HA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority office(s), including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the HA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the HA's office in such a manner as to be easily readable from a wheelchair.

The offices of the Housing Authority of the City of Tulsa are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDD.

#### **D. REASONABLE ACCOMODATIONS POLICY**

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with the HA when the HA initiates contact with a family including when a family applies, and when the HA schedules or reschedules appointments of any kind.

It is the policy of this HA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the HA will treat a person differently than anyone else.

The HA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on HA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the HA, when the HA initiates contact with a family including when a family applies, and when the HA's schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual;

A record of such impairment; or

Being regarded as having such an impairment

*Note: This is not the same as the HUD definition used for purposes of determining allowances.*

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the HA will require that a professional third party competent to make the assessment, provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the HA finds that the requested accommodation creates an undue administrative or financial burden, the HA will either deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the HA.

The HA will provide a written decision to the person requesting the accommodation within a reasonable period of time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the HA's decision.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All HA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

### **Verification of Disability**

The HA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

## **E. LIMITED ENGLISH PROFICIENCY**

In determining whether it is feasible to translate documents into other languages, the HA will consider the following factors:

- The number of proportion of LEP persons eligible to be serviced or likely to be encountered by THA;
- The frequency with which LEP persons using a particular language come in contact with THA;
- The nature and importance of the THA program, activity, or service provided to the person's life; and
- The resources available to THA, and costs associated with different language service options.

## **F. FAMILY OUTREACH**

The THA will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When THA's waiting list is open, the THA will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach persons who cannot read the newspapers, THA will distribute fact sheets to the broadcasting media, and initiate personal contacts with community service personnel. THA will also utilize public service announcements.

THA will communicate the status of housing availability to other service providers in the community, advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

## **G. OWNER OUTREACH**

THA encourages owners of decent, safe and sanitary housing units to lease to HCV families. THA maintains lists of interested landlords and available units for the HCV Program and updates this list at least biannually. When listings from owners are received, they will be compiled by the THA staff.

The staff of THA initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings. Printed material is offered to acquaint owners and managers with the opportunities available under the program.

THA periodically evaluates the distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted.

THA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

## **H.     PRIVACY RIGHTS**

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

THA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential." The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Vice President of Rental Assistance or Senior Manager of Rental Assistance.

In accordance with HUD requirements, THA will furnish prospective owners with the family's current address as shown in THA's records and, if known to THA, the name and address of the landlord at the family's current and prior address.

A statement of the THA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

THA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.



Staff will not discuss family information contained in files 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.

#### **I. EQUAL EMPLOYMENT OPPORTUNITY**

THA practices affirmative action in hiring, promotion and conditions of employment. Position vacancies are advertised in the *Oklahoma Eagle*, *Tulsa World*, and by posting at THA's central office and each public housing site. All THA job advertisements will display the affirmative action/equal employment opportunity logo and slogan prominently.

#### **J. RULES AND REGULATIONS**

This Administrative Plan is set forth to define THA's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to the HCV program not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law.

#### **K. JURISDICTION**

The jurisdiction of THA is the City of Tulsa.

## **L. MONITORING PROGRAM PERFORMANCE**

THA operates its housing assistance program with efficiency and can demonstrate to HUD auditors THA is using its resources in a manner that reflects its commitment to quality and service. THA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators:

- Selection from the Waiting List
- Rent Reasonableness
- Determination of Adjusted Income
- Utility Allowance Schedule
- HQS Quality Control Inspections
- HQS Enforcement
- Expanding Housing Opportunities
- Payment Standards
- Annual Reexaminations
- Correct Tenant Rent Calculations
- Pre-Contract HQS Inspections
- Annual HQS Inspections
- Lease Up
- Family Self Sufficiency Enrollment and Escrow Account Balances
- Bonus Indicator for Deconcentration

Quality Control reviews will be performed by the Compliance Auditor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

- Selection from the Waiting List
- Rent Reasonableness
- Determination of Adjusted Income
- HQS Enforcement
- HQS Quality Control

In accordance with HUD guidelines the Compliance Auditor or Supervisory staff will audit the following:

<b>Universe</b>	<b>Minimum # of files or records to be sampled</b>
50 or less	5
51-600	5 plus 1 for every 50(or part of 50) over 50
601-2000	16 plus 1 for every 100(or part of 100) over 600
Over 2000	30 plus 1 for each 200(or part of 200) over 2000

The Compliance Auditor will verify all fourteen SEMAP Indicators; however, only Indicators 1, 2,3,5,6 are required to be performed as a supervisory quality control review.

There are Indicators which require information from a selection of participant files. The annual sample of files and records will be drawn in an unbiased manner by computer, leaving a clear audit trail. Indicators 5, HQS Quality Control Inspections, are conducted by the Inspections Manager in accordance with HUD guidelines as stated above. Each file selected will include an audit checklist listing the Indicator, the subject of the review, the staff who completed the initial task, and the name, signature and date the supervisory person conducted the quality control review. The file will also include detail of review findings and date of any corrections made if required.

In addition to the above listed documentation, the following procedures are conducted for each specific Indicator:

#### Indicator 1 Selection and Admissions to Waiting List

Two quality control samples will be drawn: one sampling for applicants reaching the top of the waiting list and one sampling for applicants admitted to the Voucher program. The list of selections are made from the waiting for the fiscal year the HA is reporting. Random selections of applicant names are selected from the selection list. The sample of files will be examined to verify if the selection criteria determining the applicants place on the waiting list and selection order has been met. The sample pool for Admissions will be selected from random audits performed from the fiscal year the HA is reporting. The sample of files will be examined to verify the applicants were admitted to the Voucher program in accordance with HUD guidelines.

#### Indicator 2 Reasonable Rent

A quality control sample will be selected to determine if the policy of reasonable rent was followed. The sample pool for Voucher new leases and annual renewals will be selected from random audits conducted during the reporting period. The sample files will be examined to verify the HA is in accordance with its policy on methodology of determining and documenting reasonable rent. The policy is found in Chapter 11, “Owner Rents, Rent Reasonableness, and Payment Standards”.

#### Indicator 3 Determination of Adjusted Income

A quality control sample will be selected from both Voucher new leases and annual renewals from random audits conducted during the reporting period. The sample files will be examined to confirm the HA verifies and correctly determines adjusted annual income for each family, obtains third party verification of family income, properly attributes and calculates allowances and uses the appropriate utility allowance to determine gross rent for each unit leased.

#### Indicator 5 HQS Quality Control Inspections

The Inspections Manager or other qualified person will reinspect a random sample of the units under contract during the reporting period. The completed HQS inspections included in the sample must be no older than three months at the time of the quality control inspection. The sample must represent a cross section of neighborhoods where the program units are located and inspections must include all HQS inspectors. The sample will include both initial and annual inspections. Quality control inspections and results will be recorded in the Inspections System as a Special Inspection. For SEMAP purposes, an HQS deficiency found at the time of the quality control reinspection represents a “fail” quality control inspection. When rating an individual inspector’s performance, the quality control inspector will take into account whether the failed item occurred since the previous inspector was on site. The quality control tracking system for each SEMAP year must contain the following:

- Address of the unit
- Date of original inspection
- Name of inspector
- Date of quality control inspection
- Results of the quality control inspection
- Name of the quality control inspector
- Location of the unit by zip code

#### Indicator 6 Housing Quality Standard Enforcement

A report will be generated indicating the total number of failed HQS inspections for the reporting period. A random sample selection of failed inspection units will be selected from the report. The sample files are examined to verify each HQS unit under contract where the unit fails to meet HQS, any cited life threatening HQS deficiencies are corrected within 24 hours from the inspection and all other cited HQS deficiencies are corrected within no more than 30 calendar days from the inspection or any THA approved extension. Also verified, are any HQS deficiencies not corrected timely that the HA has abated the housing assistance payment beginning no later than the first of the month following the specified correction period or terminates the HAP contract and for family caused defects, the HA takes prompt action to enforce the family obligations.

In order to demonstrate compliance with HUD and other pertinent regulations, the HA will maintain records, reports and other documentation in accordance with HUD requirements to monitor and assess the HA with internal supervisory audits.

#### **M. ADMINISTRATIVE FEE RESERVE**

Expenditures from the Section 8 Administrative Fee Reserve, for other housing purposes, exceeding \$25,000 will require specific Board approval.

## **N. TERMINOLOGY**

The Housing Authority of the City of Tulsa is referred to as “HA”, “THA” or “Housing Authority” throughout this document.

“Family” is used interchangeably with “Applicant” or “Participant” and can refer to a single person family.

“Tenant” is used to refer to participants in terms of their relation to landlords.

“Landlord” and “owner” are used interchangeably.

“Disability” is used where “handicap” was formerly used.

“New Rule” refers to the HUD Occupancy Regulations effective 10/2/95. “Old Rule” refers to the Regulations that were superseded on that date.

“Noncitizens Rule” refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Section 8 programs are also known as the Housing Choice Voucher Program.

“HQS” means the Housing Quality Standards required by regulations as enhanced by the HA.

“Failure to Provide” refers to all requirements in the first Family Obligation. See Chapter 15, “Denial or Termination of Assistance.” See Glossary for other terminology.

## Chapter 2

### ELIGIBILITY FOR ADMISSION

#### **INTRODUCTION**

This Chapter defines both HUD's and the HA's criteria for admission and denial of admission to the program. The policy of this HA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The HA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the HA pertaining to their eligibility.

#### **Eligibility Factors**

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the HA.

The HUD eligibility criteria are:

- 1) An applicant must be a "family"
- 2) An applicant must be within the appropriate Income Limits
- 3) An applicant must furnish and verify Social Security Numbers
- 4) An applicant must furnish evidence of Citizenship/Eligible Immigrant Status

For the HA's additional criteria for eligibility, see Section E, "Other Criteria for Admission."

The Family's initial eligibility for placement on the waiting list will be determined by an applicant's meeting eligibility factors number 1 and 2 above. Evidence of Citizenship/Eligible Immigrant Status and verification of Social Security Numbers will not be required until the family is selected from the waiting list for issuance of a Housing Choice Voucher.

**A. FAMILY COMPOSITION** The applicant must qualify as a Family. A Family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that they are not related by blood, marriage or operation of law. A Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

A group of persons may be:

Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship which has existed over a period of six (6) months or more.

Two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family.

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A single person may be:

An elderly person

A displaced person

A person with a disability

The remaining member of a tenant family

Any "other single" person

### **Head of Household**

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter in to a lease under State/local law. Minors who have the legal capacity to enter in to a lease under State law will be recognized as head of household. Oklahoma Statutes permit minors to make contracts for necessities. The text of 15 O.S.A. Section 20 reads: "A minor cannot disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for his support, or that of his family, entered into by him when not under the care of a parent or guardian able to provide for him or them."

### **Spouse of Head**

Spouse means the husband or wife of the head.

For proper application of the Noncitizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

### **Co-Head**

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

### **Live-In Attendants**

A Family may include a live-in aide provided that such live-in aide:

Is determined by the THA to be essential to the care and well being of an elderly person, or a near-elderly person, or a person with disabilities,

Is not obligated for the support of the person(s), and

Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

Family members of a live-in attendant may also reside in the unit provided doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the live-in's family members does not overcrowd the unit.

A live-in aide may only reside in the unit with the approval of the THA. Written verification will be required from a reliable, knowledgeable medical professional, such as a physician or psychiatrist. The verification provider must certify that a live-in aide is medically necessary for the care of the family member who is elderly, near elderly or disabled. Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live-in attendant.

### **Split Households Prior to Housing Choice Voucher Issuance**



When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the HA will make the decision taking into consideration the following factors:

Which family member retains the children or any disabled or elderly members.

Where no children, disabled or elderly member exist in the split household, THA will consider which family member applied as head of household and consider the role of domestic violence in the split.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the HA.

In cases where domestic violence played a role, the actual or threatened violence must have occurred within the past 6 months prior to the family's split or be of a continuing nature. Domestic violence will be considered "continuing" if the applicant provides medical records, police reports or statements from qualified domestic violence social workers documenting repeated abuse and the most recent episode was not more than six (6) months prior to the date that the family splits.

To retain the application, the abused family member must demonstrate that they resided with the abuser at the time of the actual or threatened violence which resulted in the family split. The abused family member must certify that the abuser will not reside with them unless the HA gives prior written approval. If the abuser returns to the family without approval of the HA, the HA will deny or terminate assistance for breach of the certification.

#### **Multiple Families in the Same Household**

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit. However, when families apply which consist of two families living together and the families are not members of the same immediate family (such as a mother with children and a cousin with her own husband), they will be considered two separate families and required to apply as such unless they can show evidence of a stable family relationship which has existed over a period of six (6) months or more.

THA does not participate in the “shared housing” component of the Voucher program in which two families receive assistance in the same residence.

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. “51% of the time” is defined as 183 days of the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child and no legal custody agreement is in effect, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

Court issued custody documents will have precedence over school records.

### **B. INCOME LIMITATIONS**

In order to be eligible for assistance, an applicant must be either:

An extremely or very low-income family; or

A low-income family in any of the following categories:

- A low-income family continuously assisted under public housing, all Section 8 programs, and all Section 23 programs.
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.
- A low-income non-purchasing family in certain homeownership programs.
- 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 under 24 CFR 248.101.
- Low-income family that meets PHA specified criteria.

To determine if the family is income-eligible, the HA compares the Annual Income of the family to the applicable income limit for the family’s size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

**Single jurisdiction HAs:** The applicable income limit to be used at initial issuance of a HCV is the income limit of the HA.

For admission to the program initial lease-up, the family must be within the applicable income limit of the jurisdiction where they want to live.

Portability: For initial lease-up, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving HA in which they want to live.

Participant families who exercise portability, and request or require a change in their form of assistance, must be within the low-income limit of the receiving HA if they are to receive the alternate form of assistance.

### **C. MANDATORY SOCIAL SECURITY NUMBERS**

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Numbers.

### **D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

No eligible members. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students defined by HUD in the non-citizen regulations are not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

**E. OTHER CRITERIA FOR ADMISSION**

The HA may apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

1. The Family must have not have failed to sign and submit consent forms for obtaining information in accordance with 24 CFR part 760 and 24 CFR part 813.
2. No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
3. The family must not have failed to submit required evidence of citizenship or eligible immigration status.
4. Family must have satisfied any outstanding debt owed the HA or another HA as a result of prior participation in any federal housing program.
5. No member of the family may have engaged in drug related or criminal activity within the past thirty-six (36) months.

At the time of final determination of eligibility (or full application), each applicant will undergo a criminal background screening before being offered initial assistance through a Section 8 program. Each applicant must complete a THA-481, Release of Information for Housing Consideration form, authorizing the Tulsa Police Department or any other Local, State or Federal Law Enforcement Agency to release to THA a copy of any convictions and/or arrests of the applicant within the last ten (10) years.

Those applicants who have been involved in criminal or drug activity and/or alcohol abuse within a three (3) year period previous to making formal application may be denied assistance.

Assistance will be denied to households with a member who is subject to a lifetime registration requirement under a state sex offender registration program.

Criminal activities to be considered are crimes that threaten health, safety, or right to peaceful enjoyment of the premises. Such crimes are: (1) felonies; (2) crimes of violence; (3) crimes against property; (4) crimes that impose a financial cost; and (5) crimes that involve disturbing the peace, drug-related activities, and/or alcohol abuse.

Applicants denied housing assistance with such criminal histories may be considered on a case-by-case basis. Applicants denied housing assistance for criminal or drug related activity and/or alcohol abuse will be provided an opportunity for an informal review on the determination. Criminal activity may be the cause for denial of assistance even in the absence of conviction or arrests. (see Appendix I)

If the family indicates that they have been arrested or convicted for drug-related or violent criminal activity, the HA shall obtain verification through police/court records.

7. Persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for admission to the Section 8 programs for a three-year period beginning on the date of such eviction.

THA may waive this requirement if: (1) the person demonstrates successful completion of a rehabilitation program approved by the HA, or (2) the circumstances leading to the eviction no longer exist. (For example, the individual involved in drugs is no longer in the household because the person is incarcerated.)

8. Person convicted of manufacturing or producing methamphetamine on premises of assisted housing will be permanently denied.
9. No family member may have engaged in or threatened abusive or violent behavior toward HA personnel.

Abusive behavior includes, but is not limited to, cursing, use of profanity, harassing phone calls, yelling or screaming directed at THA personnel.

Violent behavior includes, but is not limited to, threat of bodily harm directed towards THA personnel or their family, striking, pushing, shoving, spitting, hitting, slapping or kicking THA personnel.

**F. SUITABILITY OF FAMILY**

The HA may take into consideration any of the additional criteria for admission in Section E above, but may not otherwise screen for factors which relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen the applicants as to their suitability for tenancy.

The HA will advise families how to file a complaint if they have been discriminated against by an owner. The HA will advise the family to make a Fair Housing complaint. The HA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Human Rights Commission.

**G. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT**

Changes that occur during the period between placement on the waiting list and issuance of a HCV may affect the family's eligibility or share of the rental payment. For example, if a family goes over the income limit prior to lease up, the applicant will not continue to be eligible for the program. They will be notified in writing of their ineligible status and their right to an informal review.

**H. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to noncitizen status. See Chapter 19, "Complaints and Appeals" for additional information about reviews and hearings.

## Chapter 3

### APPLYING FOR ADMISSION

#### **INTRODUCTION**

The policy of the HA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the HA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

#### **A. HOW TO APPLY**

Families who wish to apply for any of THA's programs must complete an application form when application-taking is open. Applications will be made available in an accessible format upon request from a person with a disability. When the waiting list is open, any family asking to be placed on the waiting list for the Section 8 Housing Choice Voucher Program will be given the opportunity to complete an application.

The application process will involve two phases. The first is the "initial" application for assistance (referred to as a pre-application). The first phase results in the family's placement on the waiting list. The pre-application is submitted online via THA's website.

The second phase is the "final determination of eligibility" (referred as the full application). The full application takes place when the family reaches the top of the waiting list. At this time THA ensures that verification of all HUD and HA eligibility factors is current in order to determine the family's eligibility for the issuance of a HCV.

#### **B. OPENING/CLOSING OF APPLICATION TAKING**

The HA will utilize the following procedures for opening the waiting list.

When the HA opens the waiting list, the HA will advertise through public notice in the following newspapers: *Tulsa World* and *Oklahoma Eagle*.

Notices will also be sent to the Department of Human Services, Social Security Administration, Center for the Physically Limited and Tulsa Senior Services, as well as various emergency shelters located throughout the city of Tulsa.

The notice will contain:

- The dates, times, and the locations where families may apply.

- The programs for which applications will be taken.
- A brief description of the program.
- A statement that public housing residents must submit a separate application if they want to apply for the Section 8 Housing Choice Voucher Program
- Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the HA address and telephone number, how to submit an application, information on eligibility requirements, and the availability of any Federal, ranking or local selection preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

#### **When Application Taking May Be Suspended**

THA may suspend the acceptance of applications if there are enough applicants to fill anticipated openings for the next 24 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws. THA will not announce suspension of application-taking.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. When the period for accepting applications is over, THA will add the new applicants to the list by separating the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

#### **Limits on Who May Apply**

When the waiting list is open,

Any family asking to be placed on the waiting list for Section 8 Housing Choice Voucher rental assistance will be given the opportunity to complete an application.

When the application is submitted to THA:

It establishes the family's date and time of application for placement order on the waiting list.



### **C. “INITIAL” APPLICATION PROCEDURES**

THA will utilize a preliminary-application form (pre-application). The information is to be filled out by the applicant whenever possible. To provide specific accommodation to persons with disabilities, the information may be completed by a staff person over the telephone or during a home visit.

The purpose of the pre-application is to permit THA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application will contain questions designed to obtain the following information:

Names of adult members and age of all members

Sex and relationship of all members

Phone Number & Mailing Address (If PO Box or other permanent address)

Amount(s) and source(s) of income received by household members

Information regarding disabilities relating to program requirements (i.e., deductions)

Information related to qualification for preferences

Social Security Numbers

Race/ethnicity

Request for Specific Accommodation needed to fully utilize program and services

Criminal background

Duplicate applications, including applications from a segment of an applicant household, will not be placed on the waiting list. Applications from participant heads of household or spouses will not be placed on the waiting list. Ineligible families will not be placed on the waiting list.

Pre-applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed, and all information is verified.

Applicants are required to inform THA in writing of changes in family composition, income, and address, as well as any changes in their preference status. Applicants are also required to respond to requests from THA to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list. See Chapter 19, “Complaints and Appeals”

#### **D. NOTIFICATION OF APPLICANT STATUS**

If after a review of the pre-application the family is determined to be preliminarily eligible, they will be notified in writing, in an accessible format upon request, as a reasonable accommodation. The notice will contain the approximate date that assistance may be offered, and will further explain that the estimated date is subject to factors such as turnover and additional funding. This written notification of preliminary eligibility will be mailed to the applicant by first class mail.

Applicants are required to inform THA, in writing, of changes in address. Applicants are also required to respond from requests from THA to update information on their application and to determine their interest in assistance. An applicant’s failure to respond to requests for information will result in removal of the application from the waiting list.

Mail sent from THA to an applicant will be forwarded, as long as the applicant has filed a “forwarding address” order with the post office. Mail sent from THA to an applicant is considered received unless returned by the postal service as undeliverable will result in removal of the application from the waiting list.

Mail returned to THA, which is not the result of postal service error, will result in removal of the application from the waiting list. It is the applicant’s responsibility to provide verification from the postmaster explaining the error that caused the applicants mail to be returned to THA. Verification must be received by THA within thirty (30) days of the date the application was removed from the waiting list. Applicants providing acceptable verification will be returned to the waiting list with their original application date.

Applicants removed from the waiting list will be required to submit a new application. Applicants removed from the waiting list will be entitled to an informal review.

If the family is determined to be ineligible based on the information provided in the pre-application, the HA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See Chapter 19, “Complaints and Appeals.”

#### **E. TIME OF SELECTION**

When funding is available, families will be selected from the waiting list by date of application in their preference-determined sequence, regardless of family size, subject to income targeting requirements.

When there is insufficient funding available for the family at the top of the list, THA will not admit any other applicant until funding is available for the first applicant. Applicants will not be

passed over on the waiting list except to the extent required to fulfill the HUD mandated requirement that not less 75% of new admissions to the tenant-based voucher assistance program must have incomes at or below 30% of the area median income.

Based on THA's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool". Selection from the pool will be based on the completion of verifications.

#### **F. COMPLETION OF A FULL APPLICATION**

A selection preference claimed on the pre-application or while the family is on the waiting list will be verified after the family is selected from the waiting list, and prior to completing the initial eligibility determination.

The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status.

At the time the applicant makes full application and the verification process begins, applicants will be required to:

- Complete a Tenant Information Form during the full application interview.

- Participate in a full application interview with an HA representative during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The HA interviewer will complete the full application form with answers supplied by the applicant.

- The applicant will sign and certify that all information is complete and accurate.

The full application will be communicated as requested as an accommodation to a person with a disability, completed during a home visit as needed by a person with a disability, or completed when the applicant attends the interview.

#### **Requirement to Attend Interview**

THA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other HA services or programs which may be available.

All adult family members are required to attend the interview and sign the applicable documents and verification forms.

If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within five (5) business days to review the information and to certify by signature that all of the information is complete and accurate.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, THA will reject the application unless the applicant can provide acceptable documentation to THA that an emergency prevented them from calling or attending.

If an applicant fails to appear for a pre-scheduled appointment, THA will send a missed appointment letter. Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than five (5) business days from the date of THA's letter. The request must be made to the staff person who scheduled the appointment.

Reasonable accommodation will be made for persons with a disability who requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See Chapter 19, "Complaints and Appeals.")

All adult members must sign the HUD Form 9886, Release of Information, the declarations and consents related to citizenship/immigration status and any other documents required by the THA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by THA.

Information provided by the applicant will be verified including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to preferences, eligibility and rent calculation. Verifications may not be more than 60 days old at the time of Voucher issuance.

If THA determines at or after the interview that additional information or document(s) are needed, THA will request the document(s) or information in writing. The family will be given ten (10) business days to supply the information.

If the information is not supplied in this time period, THA will provide the family a notification of denial for assistance. (See Chapter 19, "Complaints and Appeals.")

**G. FINAL DETERMINATION & NOTIFICATION OF ELIGIBILITY**

After the verification process is completed, THA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by THA, and the current eligibility criteria in effect. If the family is determined to be eligible, THA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a HCV and the family's orientation to the housing program.

## Chapter 4

### ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

#### **INTRODUCTION**

It is the HA's objective to ensure that families are placed in the proper order on the waiting list so that an offer of assistance is not delayed to any family or made to any family prematurely. This chapter defines the eligibility criteria for the preferences and explains the HA's system of applying them. By maintaining an accurate waiting list, the HA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

#### **A. APPLICATION POOL**

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

1. The application will be a permanent file.
2. All applicants in the pool will be maintained in order of preference. Applications equal in preference will be maintained by date and time sequence.
3. All applicants must meet "Income" eligibility requirements as established by HUD. Any exceptions to these requirements, other than those outlined in Chapter 2, "Eligibility for Admission," must have been approved previously by the HUD Field Office.

#### **Special Admissions**

Applicants, who are admitted under Special Admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate waiting lists.

Applicants who are admitted under targeted funding and are not identified as a Special Admission are identified by codes in the automated system and are not maintained on separate waiting lists.

## **B. WAITING LIST PREFERENCES**

Ranking Preferences- These preferences will be weighted higher than any other preferences.

1. Involuntary Displacement – The family is involuntarily displaced by PHA action or declared natural disaster.
2. Elderly – The head of household or spouse is age 62 or older.

The elderly preference will apply to the following converted RAD PBV properties for families where the head of household or spouse is age 62 or older.

- Pioneer Plaza
- Hewgley Terrace
- LaFortune Tower
- Country Club Gardens (Latimer)

THA offers the following three preferences, which are weighed equally:

1. The applicant family is residing in a public or private shelter as a result of domestic violence; and/or has had actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who was living in the unit with the family. (Domestic violence)

The actual or threatened violence must have occurred within the past 6 months prior to certification or be of a continuing nature. Domestic violence will be considered "continuing" if the applicant provides medical records, police reports or statements from qualified domestic violence social workers documenting repeated abuse and the most recent episode was not more than six (6) months prior to the date that THA is certifying the applicant eligible for assistance.

An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered a victim of domestic violence.

2. The applicant family has one or more family members who are disabled.
3. The head or spouse of the applicant family is a current member of the military, a veteran, the surviving spouse of a veteran.

### **C. INITIAL DETERMINATION OF PREFERENCE QUALIFICATION**

An applicant will not be granted any preference if any member of the family has been evicted from any federally assisted housing during the past three years because of drug-related criminal activity.

THA will grant an exception to such a family if:

The responsible member has successfully completed a rehabilitation program.

The evicted person was not involved in the drug related activity that occasioned the eviction and the applicant certifies to the HA that the person that was involved in the drug related activity will not be permitted to reside in the assisted household.

At the time of application, an applicant's certification that they qualify for a preference will be accepted without verification. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list and ranked without the preference and given an opportunity for a review.

### **D. EXCEPTIONS FOR SPECIAL ADMISSIONS**

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

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

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

1. A family displaced because of demolition or disposition of a public or Indian housing project.
2. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project.
3. For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990;



4. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term: and
5. A non-purchasing family residing in a HOPE 2 or HOPE 2 project

#### **E. TARGETED FUNDING**

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

THA has the following “Targeted” Programs:

- Homeless Voucher
- Family Unification
- Section 8 for Persons with Disabilities
- Welfare to Work Vouchers

#### **F. PREFERENCE ELIGIBILITY**

##### **Retention of Preference for HOME Tenant Based Assistance Participants**

If an applicant for Section 8 is assisted under the HOME program and was selected for the HOME program based on their position on the Section 8 waiting list, and funding under the HOME program has terminated, the applicant returns to the Section 8 waiting list with the status held at time of admission to the HOME program.

##### **Cross-Listing of Public Housing and Section 8**

THA will not merge the waiting lists for Public Housing and Section 8 Housing Choice Voucher program. However, if the Section 8 Housing Choice Voucher program waiting list is open when the applicant is placed on the public housing list, THA must offer to place the family on both lists. If the Public Housing waiting list is open at the time an applicant applies for the Section 8 Housing Choice Voucher program, THA must offer to place the family on the public housing waiting list.

THA will merge its waiting lists for the HCV programs with the Section 8 Moderate Rehabilitation program.

## **G. ORDER OF SELECTION**

The order of selection is based on THA's system for weighing preferences and the HUD requirements.

The order of selection for the Welfare to Work Voucher Program will be:

1. All families on the waiting list currently receiving TANF.
2. All families on the waiting list having received TANF within the preceding two years as certified by the TANF provider.
3. All families eligible to receive TANF as certified by the TANF provider.

If the family does not meet the qualifications for the Welfare to Work program, THA will notify the applicant in writing offering the applicant the opportunity for a review. If the denial is upheld as a result of the review or the applicant does not request a review the applicant will be returned to the waiting list. The applicant may exercise other rights if they believe they have been discriminated against.

## **H. PREFERENCE DENIAL**

If THA denies a preference, THA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review. If the preference denial is upheld as a result of the review, or the applicant does not request a review, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If THA verifies the applicant falsified documents or made false statements in order to qualify for any preference, their actions will be considered fraudulent, and the applicant will be removed from the Waiting List and barred from participation in the Section 8 programs for a minimum of five (5) years.

## **I. REMOVAL FROM WAITING LIST AND PURGING**

If an applicant fails to respond to a mailing from THA, the applicant will be sent written notification and given ten (10) days to contact THA. If they fail to respond within the ten (10) days, they will be removed from the waiting list. An extension will be considered as an accommodation if requested by a person with a disability. If THA correspondence is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the correspondence will be maintained in the file. If THA correspondence is returned with a forwarding address, it will be re-mailed to the address indicated.

THA allows a grace period of 60 days after an applicant is removed from the waiting list for failure to respond. Applicants who contact THA during the grace period will be reinstated to the waiting list.

The waiting list will be purged annually by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

The same guidelines will be used for failure to respond to this mailing. Notices will be made available in accessible format upon the request of a person with a disability.

THA allows a grace period of 60 days after completion of the purge. Applicants who respond during this grace period will be reinstated.

## Chapter 5

### SUBSIDY STANDARDS

#### **INTRODUCTION**

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

#### **A. DETERMINING HCV SIZE**

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

All standards in this section relate to the number of bedrooms on HCV voucher, not the family's actual living arrangements.

The unit size on the HCV remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

1. One bedroom will be assigned for each two-family members regardless of sex, age, or relationship. Exceptions will be made for medical reasons and in the case of a live-in aide.

2. Generally, THA assigns one bedroom to two people within the following guidelines:

Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship).

Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.

Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendants' family.

Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.

Adults of different generations will have separate bedrooms.

Single person families shall be allocated one bedroom.

### **GUIDELINES FOR DETERMINING CERTIFICATE/VOUCHER HCV SIZE**

HCV Size	Persons in Household (Minimum #)	Persons in Household (Maximum #)
0 Bedroom	<b>1</b>	<b>1</b>
1 Bedroom	<b>1</b>	<b>2</b>
2 Bedrooms	<b>2</b>	<b>4</b>
3 Bedrooms	<b>3</b>	<b>6</b>
4 Bedrooms	<b>6</b>	<b>8</b>
5 Bedrooms	<b>8</b>	<b>10</b>
6 Bedrooms	<b>10</b>	<b>12</b>

### **B. CHANGES IN HCV SIZE**

#### **Changes for Applicants**

The HCV size is determined prior to the briefing by comparing the family composition to the HA subsidy standards. If an applicant requires a change in the HCV size, the following guidelines will apply:

#### **Requests for Exception to Subsidy Standards for Applicants**

The family may request a larger sized HCV than indicated by THA's subsidy standards. Such request must be made in writing within 10 days of the applicant's HCV issuance date. The request must explain the need or justification for a larger bedroom size.

THA will not issue a larger HCV due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

THA shall grant exceptions from the standards if the family requests and THA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of an accommodation which has been requested, such as:

Persons who cannot occupy a bedroom because of a verified medical or health reason; or

Elderly persons or Persons with disabilities who may require a live-in attendant.

Requests based on health-related reasons must be verified by a doctor or medical professional.

If THA makes an error in the bedroom size designation, the family will be issued a HCV of the appropriate size so that the family is not penalized.

### **Changes for Participants**

The members of the family residing in the unit must be approved by THA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform THA within 30 days.

#### **Requests for Exception to Subsidy Standards for Participants**

THA may grant an exception request as an accommodation for persons with disabilities.

The family may request a larger sized HCV than indicated by THA's subsidy standards. Such request must be made in writing within 10 days of the family's HCV issuance. The request must explain the need or justification for a larger bedroom size. The issue and expiration dates on the family's HCV will remain the same regardless of the outcome of the exception request.

THA may not issue a larger size HCV due to additions to the family other than by birth, adoption, marriage, or court-awarded custody or THA approved live-in aide. Elderly and disabled adult relatives will be added upon doctor's recommendation. Other situations will be considered on a case by case basis by the Vice President of Rental Assistance and Senior Manager of Rental Assistance.

#### **Underhoused and Overhoused Families**

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), THA will issue a new HCV and assist the family in locating a suitable unit. Families will be given a minimum of 60 days before assistance is terminated.

THA will also notify the family of the circumstances under which an exception will be granted, such as:

If a family with a disability is underhoused in an accessible unit

If a family requires the additional bedroom because of a health problem which has been verified by THA

### **C. UNIT SIZE SELECTED**

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

1. Rent Limitation: For the Voucher Program Rent Limitation: THA uses the Payment Standard for the voucher size or the unit size selected by the family, whichever is less.
2. Utility Allowance: The utility allowance used to calculate the gross rent is based on the lower of the actual unit size or the HCV size.
3. Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

### **HQS GUIDELINES FOR UNIT SIZE SELECTED**

Maximum # of Persons in Household	
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12
6 Bedrooms	14

## Chapter 6

### FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION

#### **INTRODUCTION** [24 CFR Part 5]

The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations. This Chapter defines the allowable deductions from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5 and further instructions set forth in HUD Notices, Memoranda and Addenda. The formula for the calculation of TTP is specific and not subject to interpretation. The HA's policies in this Chapter address those areas which allow the HA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

#### **A. INCOME AND ALLOWANCES**

Income: The types of money which are to be used as income for purposes of calculating the TTP are defined by HUD in federal regulations. In accordance with this definition, income from all sources of each member of the household is counted.

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

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

HUD has five allowable deductions from Annual Income:

1. Dependent allowance: \$480 each for family members (other than the head or spouse), who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
2. Elderly/Disability allowance: \$400 for families whose head or spouse is 62 or over or disabled.
3. Allowable medical expenses for all family members are deducted for 'elderly' families.



4. Child care expenses for children under 13 are deducted when child care is necessary to allow an adult member to search for work, work or attend school, but only to the extent that the amounts are not reimbursed.
5. Expenses for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work provided the expenses are not paid to a family member or reimbursed by an outside source.

## **B. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

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

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

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

### **Absence of Entire Family**

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

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

Families must notify THA if they are going to be absent from the unit for more than 30 consecutive days.

If the entire family is absent from the assisted unit for more than the number of days listed below in the given situation, the unit will be considered to be vacated and the assistance will be terminated:

1. Family Medical - no more than 84 consecutive days. Family medical is defined as absence of the family from the unit in order to care for the head's or spouse's parent, step-parent, sibling, or child that resides outside the assisted unit. THA must be notified, in writing, within three (3) days of the absence. Notice must include where the family is going, a means of contact, and expected date of return.

2. Personal Medical - no more than 90 consecutive days with possibility of an additional 90 days. THA must be notified, in writing, within three (3) days of absence. Notice must include where the family is going, a means of contact, and expected date of return.
3. Extended Vacation - no more than 30 consecutive days.
4. Armed Forces - when called to active duty, no more than 180 consecutive days. THA must be notified, in writing, in advance of the family's absence and provided with documentation of the call to active duty.
5. Job Training - no more than 180 consecutive days. THA must be notified, in writing, in advance of the family's absence. THA will verify the necessity of the job training and the expected duration of the training through the family's employer. The family must provide THA with their destination and a means of contact.
6. Incarceration - no more than 90 consecutive days. THA must be notified, in writing, within three (3) days of the absence. Notice must state where the family is incarcerated and expected date of release.

If it is determined that the family is absent from the unit longer than the time specified in this Plan, the HA will not continue assistance payments.

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

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

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

- \* Write letters to the family at the unit - returned mail will indicate absence
- \* Telephone the family at the unit
- \* Interview neighbors
- \* Verify if utilities are in service - lack of utilities will indicate absence

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar days limit.

If the absence which resulted in termination of assistance was due to a person's disability and THA can verify that the person was unable to notify THA in accordance with the family's responsibilities, and if funding is available, THA may reinstate the family as an accommodation if requested by the family.

### **Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for three (3) consecutive months or ninety (90) days in a 12-month period except as otherwise provided in this Chapter.

In the absence of spouse/significant other legal documentation will be required. If legal documentation is not available, the remaining adult member will be required to certify to the absence.

### **Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the HA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than ninety (90) consecutive days, the family member will not be considered permanently absent. An extension of the initial ninety (90) day period may be requested by the family. Any extension of time will not exceed an additional ninety (90) days. In order to be considered for the extension, THA must receive documentation from the absent family member's health care provider indicating that there is a reasonable likelihood of discharge within the next ninety (90) days.

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

### **Absence due to Incarceration**

If the sole member is incarcerated for more than ninety (90) consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for three (3) consecutive months **or** ninety (90) days in a twelve-month period.

THA will determine if the reason for incarceration is for drug-related or violent criminal activity.

### **Foster Care and Absences of Children**

If the family includes a child or children temporarily absent from the home due to placement in foster care, THA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than six (6) months from the date of removal of the child/ren, the HCV size will be reduced. If all children are removed from the home permanently, the HCV size will be reduced in accordance with THA's subsidy standards.

### **Absence of Adult**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, THA will treat that adult as a visitor for the first ninety (90) days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the HCV will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, THA will review the status at ninety (90) day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, THA will secure verification from social services staff or the attorney as to the status.

THA will transfer the HCV to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than ninety (90) days and it is reasonable to expect that custody will be granted.

When THA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. THA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than three (3) months, the person will be considered permanently absent.

If an adult family member leaves the household for any reason, the family must report the change in family composition to THA within ninety (90) days.

The family member will be determined permanently absent if verification is provided.

Time extension will be granted as an accommodation upon request by a person with a disability.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home and live with the family during school recess will be considered permanently absent from the household.

## **Visitors**

Any adult not included on the HUD 50058 who has been in the unit more than fourteen (14) consecutive days, or a total of fourteen (14) days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a family member.

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and THA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to 120 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member.

## **Reporting Additions to Owner and HA**

Reporting changes in household composition to THA is both a HUD and THA requirement.

The family obligations require the family to request THA approval to add any other family member as an occupant of the unit and to inform THA of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing.

If the family does not obtain prior written approval from THA, any person the family has permitted to move in will be considered an unauthorized household member.

Families are required to report any additions to the household due to marriage, birth, adoption or court-awarded custody of a child in writing to THA within thirty (30) days of the move-in date.

An interim reexamination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition.

### **Reporting Absences to the HA**

Reporting changes in household composition is both a HUD and THA requirement.

If a family member leaves the household, the family must report this change to THA, in writing, within ninety (90) days of the change and certify as to whether the member is temporarily absent or permanently absent.

THA will conduct an interim evaluation for changes which affect the TTP in accordance with the interim policy.

### **C. AVERAGING INCOME**

When Annual Income cannot be anticipated for a full twelve months, THA may:

1. Average known sources of income that vary to compute an annual income, or
2. Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime, which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when UIV, third-party or check-stub verification is not available.

If by averaging, an estimate can be made for those families whose income fluctuates from month to month; this estimate will be used so that the housing payment will not change from month to month.

Temporary, nonrecurring, or sporadic income will not be included in annual income. Sporadic income is defined as income that is neither reliable nor periodic. The method used to calculate income depends on the regularity, source and type of income

### **D. MINIMUM TENANT RENT**

“Minimum rent” is \$50. Minimum rent refers to the minimum TTP and includes the combined amount the family pays including rent and/or utilities when it is applied.

### **Hardship Requests for an Exemption to Minimum Rent**

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

#### **Criteria for Hardship Exemption**

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

- The family has lost eligibility or is awaiting an eligibility determination for federal, state, or local assistance, including a family with a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- The family would be evicted as a result of the imposition of the minimum rent requirement.
- The income of the family has decreased because of changed circumstances, including loss of employment, death in the family, or other circumstances as determine by THA or HUD.

### **Suspension of Minimum Rent**

THA will grant the minimum rent suspension to all families who request it, effective the first of the following month.

The minimum rent will be suspended until THA determines whether the hardship meets the criteria for exemptions and whether it is temporary or long term.

“Temporary” means verified to last less than 90 days. “Permanent” means lasting 90 or more days. “Suspension” means that THA must not use the minimum rent calculation until THA has made this decision.

During the minimum rent suspension period, the family will not be required to pay the minimum rent, and the housing assistance payment (HAP) will be increased accordingly. If THA determines that there is no qualifying hardship, THA will reinstate the minimum rent from the time of the suspension. THA will determine whether a repayment agreement is feasible in accordance with our repayment policy.

### **Temporary Hardship Suspension**

If THA determines that the hardship is temporary, the minimum rent will not be imposed for a period of 90 days from the date of the family's request unless the family reports that the temporary hardship no longer exists. At the end of the temporary suspension period, the minimum rent will be imposed retroactively to the time of the suspension. THA will offer the family a reasonable repayment agreement.

### **Long-Term Duration Hardship Exemption**

If THA determines that there is a qualifying long-term financial hardship, THA must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first of the month following the family's request for exemption.

### **E. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the HA will calculate the Total Tenant Payment as follows:

Calculate the income by using the following methodology and use the income figure, which would result in a lower payment by the family:

- (a) Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member.

OR

- (b) Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.



## **F. REGULAR CONTRIBUTIONS AND GIFTS**

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every three (3) months or more frequently will be considered a “regular” contribution or gift, unless the amount is less than \$360 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 7, “Verification Procedures,” for further definition.) If the family receives contributions and/or gifts from more than one source that total \$360 or more the total amount will be counted as income.

If the family’s expenses exceed its known income, the HA will question the family about contributions and gifts.

## **G. ALIMONY AND CHILD SUPPORT**

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

If the amount of child support or alimony received is less than the amount awarded by the court, the HA must use the amount awarded by the court unless the family can verify that they are not receiving the full amount.

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

The HA receives verification from the agency responsible for enforcement or collection,  
or

The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency or has filed an enforcement or collection action through an attorney.

or

The family was receiving child support from the Child Support Enforcement Division and furnishes documentation that they have not received the support for three consecutive months. It is the family’s responsibility to supply a certified copy of the divorce decree.

## **H. LUMP-SUM RECEIPTS**

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets. \$100.00 will be the minimum amount countable as a lump-sum receipt.

Lump-sum payments caused by delays in processing periodic payments (unemployment or welfare assistance) are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt the HA will always calculate retroactively to date of receipt.

### **Retroactive Calculation Methodology**

1. THA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.
2. THA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due THA.

The family has the choice of paying this "retroactive" amount to THA in a lump sum.

At THA's option, THA may enter into a repayment agreement with the family.

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

### **Attorney Fees**

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

## **I. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS**

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

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

2. After retirement or termination of employment, THA will count as assets any amount the employee elects to receive as a lump sum.
3. In cases where assets are held in multiple names, THA will count only the portion of the asset available to the family.

#### **J. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

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

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

The HA's minimum threshold for counting assets disposed of for less than Fair Market value is \$1000. If the total value of assets disposed of within a one-year period is less than \$1,000, they will not be considered an asset.

#### **K. INCOME EXCLUSIONS**

Income earned by a Live-in Aide will not be included as annual income. The Vice President of Rental Assistance in accordance with THA's Reasonable Accommodation Policy must approve a live-in aide.

The full amount of student financial assistance paid directly to the student or to the educational institution will not be counted as income, even if the student does not attend school.

#### **Income Received from Training Programs**

All amounts received under training programs funded by HUD are to be excluded from annual income, during the training program. THA defines a HUD funded program as any program that receives any amount of funding from HUD.

All incremental earnings and benefits resulting from participation in a qualifying state or local employment-training program (including programs not affiliated with local government) are excluded from annual income. A qualifying program must have clearly defined goals and objectives; take place in a series of sessions over a period of time. The program must be designed to lead to a higher level of proficiency and enhance the individual's ability to obtain employment. The program must include at least one of the following, but is not limited to and must include supportive services:

- Occupational classroom training
- Subsidized on-the-job training

- Basic Education

The program must also be authorized by the Federal, State or local government; be funded by the Federal, State or local government; be operated or administered by a public agency; and have as its objective to assist participants in acquiring employment skills.

Employment training programs offering supportive services must include at least one of the following, or similar types of social services:

- Child care;
- Transportation;
- Personal welfare counseling (family/parental development counseling, parenting skills training for adult and teenage parents, substance/ alcohol abuse treatment and counseling, self-development counseling);
- Health care services (including outreach and referrals);
- Youth leadership skills; youth mentoring.

### **Earned Income Disallowance (EID)**

The EID calls for the exclusion of increases in income attributable to employment by the disabled family member over income received by that family member prior to qualifying for the disallowance. The exclusion applies only to the income of the family member with the disabilities, not the entire household. The increase income must be a result of either (1) employment by a family member who is a person with disabilities and who was “previously unemployed” for one or more years prior to employment, or (2) increased earnings by a family member who is a person with disabilities and whose earnings increased during participation in an economic self-sufficiency programs or other job training programs.

Previously unemployed is defined as a person who has earned not more than could be earned working 10 hours per week for 50 weeks at the established minimum wage. This same definition will be used for persons with disabilities that are self-employed or were self-employed.

Economic Self-Sufficiency programs are designed to encourage, assist, train or facilitate the economic independence of HUD assisted families or to provide work for such families. Economic self-sufficiency programs include:

Job training	Employment counseling
Work placement	Basic skill training
Education	English proficiency
Workfare	Financial or household management
Apprenticeship	Programs necessary to ready a participant for work (including substance abuse or mental health treatment programs)

THA will use the definition of State or Local employment –training programs as stated previously for the definition of other job training programs.

For tracking purposes, the EID will start on the first of the month following the time the family member first experiences the increase in income, not at the Interim or Annual recertification. (i.e. person employed on 12/15, tracking will start on 1/1)

Families that qualify for the EID will be required to report any changes in income immediately, or no more than thirty (30) days from the date of the change.

#### **L. CHILD CARE EXPENSES**

Child care expenses are defined as amounts anticipated to be paid by a 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.

THA will obtain third-party verification (written or oral) from the local or state government agency that oversees work-related activities, such as welfare to work requirements and unemployment compensation job search requirements, in order to verify that a person is actively seeking employment.

In the absence of third-party verification, THA will review any family supplied documents to show he or she is actively seeking employment or obtain a notarized statement from the family member attesting to his or her efforts to find employment.

In the case of a child attending private school, only after-hours care can be counted as childcare expenses.

Allowability of deductions for child care expenses are based on the following guidelines:

Childcare to search for work: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work. The “person enabled to work” will be the adult member of the household who earns the least amount of income from working.

Childcare for school: The number of hours claimed for childcare may not exceed the number of hours the family member is attending school (including one-hour travel time to and from school).

Reasonable Amount of Expense: The HA will survey the local care providers in the community as a guideline. If the hourly rate materially exceeds the guideline, the HA may calculate the allowance using the guideline. The child care expense deduction will only be given during the time that the child is in the household in the cases of split custody.

#### **M. MEDICAL EXPENSES**

Disabled or elderly families are entitled to a deduction for unreimbursed medical expenses. The allowable medical expense is that portion that exceeds three percent of annual income.

A disabled family is defined as a family whose head, spouse or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one person with disabilities living with one or more live-in aides.

An elderly family is defined as a family whose head, spouse, or sole member is a person who is at least 62 years of age.

If the household is eligible for the medical expense deduction, the medical expenses of all family members will be counted.

THA defines eligible medical expenses as follows:

Acupuncture	Laboratory Fees
Artificial Limbs	Long Term Care
Braille Books and Magazines	Monthly Payments on Medical Bills
Chiropractor	Prescription Medicines
Crutches	Nursing Home
Dental Treatment	Optometrist

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\*Guide Dog or Other Animal

Hearing Aids

Health Insurance Premiums

Home Care

Hospital Services

Oxygen

Surgery

Therapy

Transportation

X-ray

\*Guide Dog or Other Animals; the cost and the care expense of a guide dog or other specially trained animal used by a visually or hearing-impaired person, or other animals specially trained to assist persons with other disabilities will be counted as medical expenses; only after the necessity of the animal has been documented by a licensed medical professional.

## **N. DISABILITY ASSISTANCE EXPENSES**

Families are entitled to a deduction for unreimbursed medical expenses to cover care attendants and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family 18 years and older to be employed. This deduction will not exceed the earned income received by the family member enabled to work. The allowable disability assistance expense is that portion that exceeds three percent of annual income.

THA will count items that qualify as both medical or disability expenses in the manner, which will most, benefits the family (i.e. if the family will receive a higher deduction if the item is counted as a medical expense THA will count the item as a medical expense).

THA defines Auxiliary Apparatus as items that must be directly related to permitting the disabled person or other family member to work; some examples are:

Wheelchairs

Adaptations to vehicles

Ramps

Special Equipment to enable a blind person to read or write

The deduction for Auxiliary Apparatus will be given only after its necessity to the employment of any household member has been documented by a doctor or rehabilitation agency.

## **O. PRORATION OF ASSISTANCE FOR “MIXED” FAMILIES**

### **Applicability**

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

“Mixed” families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. (See Chapter 12, “Recertifications.”) Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible member are entitled to prorated assistance.

### **Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

## **P. REDUCTION IN BENEFITS**

If the family’s benefits, such as social security, SSI or TANF, are reduced through no fault of the family, THA will use the net amount of the benefit.

If the family’s benefits were reduced due to family error, omission, or misrepresentations, THA will use the gross amount of the benefit.

## **Q. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

As approved by the Oklahoma City Area HUD Office via letter dated June 5, 1998, THA utilizes the Utility Allowance Schedule developed by Oklahoma Housing Finance Agency (OHFA). The utility schedule is used for both Moderate Rehabilitation and Vouchers. As OHFA reviews and revises the utility allowances, a completed schedule will be forwarded to THA for implementation.

The Utility allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from Total Tenant Payment to establish the family’s rent to the landlord. The allowances are based on actual rates and average consumption studies, not on a family’s actual consumption.



The approved utility allowance schedule is given to families along with their HCV. The utility allowance is based on the lower of the actual unit size or the HCV size.

On request from a family that includes a person with disabilities, THA will approve a utility allowance higher than the applicable amount on the Utility Allowance Schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

Where the utility allowance exceeds the family's Total Tenant Payment, THA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the tenant unless the tenant has agreed, in writing, to a payment to the utility company.

## **Chapter 7**

### **VERIFICATION PROCEDURES**

#### **INTRODUCTION**

HUD regulations require that the factors of eligibility and Total Tenant Payment be verified by the HA. Applicants and program participants must furnish proof of their statements whenever required by the HA, and the information they provide must be true and complete. The HA's verification requirements are designed to maintain program integrity. This Chapter explains the HA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and when there are changes in family members. The HA will ensure that proper authorization from the family is always obtained before making verification inquiries.

#### **A. METHODS OF VERIFICATION AND TIME ALLOWED**

THA will verify information through the five methods of verification acceptable to HUD in the following order:

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

THA will allow 10 business days for return of third-party verifications and 10 business days to obtain other types of verifications before going to the next method. THA will make two attempts to obtain third-party verification before relying on another method.

For applicants, verifications may not be more than 60 days old at the time of HCV issuance. For participants verifications are valid for 120 days from date of receipt.

#### **Upfront Income Verification Using the Enterprise Income Verification System (EIV)**

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security benefits, and SSI benefits for participant's families. THA will generate reports as part of the annual reexamination process and any interim reexamination process. Income reports may also be used to meet regulatory requirement for third-party verification.

Income reported in HUD's Enterprise Income Verification (EIV) system will be used in verifying income. THA will use actual past income from the most recent 12 months of income

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information available in EIV. The EIV report will give actual earnings data verified by third party, therefore, the program participant is no longer required to provide third party documentation.

If there has been a change in circumstances for a participant, or a participant disputes the EIV reported income information and is unable to provide acceptable documentation to resolve the dispute, THA must require written third-party verification.

### **Upfront Income Verification Using Non-HUD Systems**

Upfront Income Verification (UIV) is used before or during a recertification, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals.

The family will be required to sign a verification form for each income source or the HUD 9886 form will be used to verify (1) salary or wages from a current or previous employer; (2) wages or unemployment compensation claim information from the state agency responsible for keeping that information, and (3) to request information from financial institutions.

The current UIV resources used by this department are the Department of Human Services, Oklahoma Employment Security Commission, and the Work Number others may be added as deemed necessary.

To consistently and uniformly resolve income discrepancies that may arise using the computerized income information, THA will define a substantial difference as \$200 or more per month. At the time of recertification and the family supplies check stubs that differ from the UIV, THA will determine if there is a substantial difference in the amount of wages. If there are, a substantial difference THA will then proceed to obtain third-party verification. If not a substantial difference THA will (1) use the tenant provided income documentation if the UIV is less than the current tenant-provided documentation; (2) use the UIV if it is more than the current tenant provided information, unless the client can prove there has been changes to their circumstances (i.e. change of employment, reduction in hours, etc.) in which case THA will proceed to obtain third party verifications.

### **Third Party Written Verification**

Third party verification is used to verify information directly with the source. 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 participant 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.

Verifications received electronically directly from the source are considered third party written verifications.

THA will accept verifications in the form of computerized printouts delivered by the family from the following agencies:

- \* Social Security Administration
- \* Veterans Administration
- \* Welfare Assistance DHS
- \* Child Support Enforcement
- \* Unemployment Compensation Office
- \* City or County Courts
- \* Email or Facsimile Transmission from the third-party to THA

### **Third-Party Oral Verification**

Oral third-party verification will be used when written third-party verification or UIV is delayed or not possible. When third-party oral verification is used, staff will be required to complete a For the Record form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third-party verification is not available, THA will compare the information to any documents provided by the Family. If provided by telephone, THA must originate the call.

### **Review of Documents**

In the event that UIV, third-party written or oral verification is unavailable, or the information has not been verified by the third party within 20 business days, THA will notate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

### **Self-Certification/Self-Declaration**

When verification cannot be made by any of the above verification methods, families will be required to submit a self-certification. Self-certification means a statement made under penalty of perjury and witnessed by a THA staff member or a notarized statement signed under the penalty of perjury. If third-party verification is received after documents have been accepted as self-certification verification, and there is a discrepancy, THA will utilize the third-party verification. THA will allow up to five business days for a family to provide a self-certification or self-declaration if other forms of verification are impossible to obtain.

## **B. RELEASE OF INFORMATION**

The family will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information.

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Each member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information requested by THA or HUD.

### **C. COMPUTER MATCHING**

The 1988 McKinney Act legislation authorized State wage record keepers to release to both HUD and HAs information pertaining to wages and unemployment compensation. How HA's access this information varies. Most HAs that do computer matching have signed an agreement with the appropriate State agency so that they can compare the name and social security number of applicants and participants with the records of the State agency. At this time THA does not utilize computer matching.

### **D. ITEMS TO BE VERIFIED**

1. All income including income not specifically excluded by the regulations.
2. Zero-income status of household.
3. Full-time student status including High School students who are 18 or over.
4. Current assets including assets disposed of for less than fair market value in preceding two years.
5. Child care expense where it allows an adult family member to be employed, seeking employment or to further his/her education.
6. Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
7. Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus, which allow an adult family member to be employed.
8. Legal Identity
9. U.S. citizenship/eligible immigrant status.
10. Social Security Numbers for all family members
11. "Preference" status based upon Local preferences.
12. Familial/Marital status when needed for head or spouse definition.
13. Disability for determination of preferences, allowances, deductions and reasonable accommodation.

### **E. VERIFICATION OF INCOME**

This section defines the methods THA will use to verify various types of income.

#### **Employment Income**

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When information cannot be obtained or verified through the EIV system, other acceptable methods of employment verification include:

- Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
- Written statement from employer on company letterhead. Third party oral verification will be used to verify the authenticity of the letter and information contained in it.
- W-2 forms with signed income tax return forms by the family may be used for verifying self-employment income.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the HA may require the most recent federal income tax statements. Where doubt regarding income exists, a referral to IRS for confirmation may be made on a case-by-case basis.

#### **Social Security, Pensions, Supplementary Security Income (SSI), Disability Income**

Acceptable methods of verification include, in this order:

1. HUD's Enterprise Income Verification (EIV) System to obtain current benefit history
2. Benefit verification form completed by agency providing the benefits
3. Telephone verification completed by THA staff
4. Award or benefit notification letters prepared and signed by the providing agency
5. Computer report electronically obtained or in hard copy

#### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

1. HUD's Enterprise Income Verification System
2. Upfront Income Verification from Oklahoma Employment Security Commission
3. Oral verification completed by THA staff of unemployment compensation from agency
4. Computer printouts from unemployment office stating payment dates and amounts
5. Payment stubs

#### **Temporary Assistance to Needy Families (TANF) or General Assistance**

Acceptable methods of verification include, in this order:

1. Upfront Income Verification from Department of Human Services
2. THA verification form completed by payment provider.

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3. Oral verification completed by THA staff.
4. Written statement from payment provider indicating the amount of grant/payment and start date of payments.
5. Computer-generated notice of benefits.

### **Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

1. Upfront Income Verification from Child Support Enforcement Agency
2. THA verification form completed by the party responsible for making the support payments. Or the Child Support enforcement Agency
3. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
4. A (notarized) letter from the person paying the support.
5. Copy of latest check and/or payment stubs from Court Trustee. HA must record the date, amount, and number of the check.
6. Family's self-certification of amount received.

If payments are irregular or no payments have been made, the family must provide evidence that reasonable efforts have been made to collect amounts due. This includes providing:

1. A copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedule
2. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement
3. A notarized affidavit from the family, or a record of the payments paid from child support enforcement, indicating the amount received. An average of the last twelve months paid will be used to determine income received from the source
4. A welfare notice of action showing amounts received by the welfare agency for child support, if applicable
5. A written statement from an attorney certifying that collection or enforcement action has been filed, or a statement from a collection entity that has assisted the family in these efforts

If the amount of child support or alimony received is less than the amount awarded by the court, THA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of items below are provided. THA will accept verification that the family is receiving an amount less than the award if:

- THA receives verification from the agency responsible for enforcement or collection
- The family furnished documentation of child support or alimony collection action Filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney
- It is the family's responsibility to supply a certified copy of the divorce decree

**Net Income from a Business**

Business owners and self-employed persons will be required to provide the most recently filed income tax form.

**Recurring Gifts**

The family must furnish a self-certification, which contains the following information:

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

**Zero Income Status**

Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, etc. are not being received by the household.

**Full-Time Student Status**

Only the first \$480 of the earned income of full time students, other than head or spouse, will be counted towards family income.

Verification of full time student status includes:

1. Written verification from the registrar's office or other school official.
2. School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

**Income From Excluded Sources**

Income that is determined by HUD to be fully excluded THA will accept a self certification from the family of the amount of fully excluded income, for example, SNAP benefits and income from a live in aide.

**F. INCOME FROM ASSETS**

Acceptable methods of verification include, in this order:

**Savings/Checking Account, Interest Income and Dividends**

Family's with assets below \$5,000 will self certify the amount of family assets and the amount of income expected to be received from those assets.

Family's with assets in excess of \$5000, THA will utilize the current balance for savings accounts and a three-month balance for checking accounts, if available.

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To document the existence of assets in excess of \$5,000, acceptable verification may include:

1. Account statements for past month (statement must not be older than 30 days on the date of the interview), passbooks, certificates of deposit, or HA verification forms completed by the financial institution. If the bank account is non-interest bearing or it can be determined that the annual interest earned will be less than \$30, no third-party verification will be obtained by THA, due to cost burden, unless the family does not have an original bank statement.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that the HA must adjust the information to project earnings expected for the next 12 months.

#### **Interest Income from Mortgages or Similar Arrangements**

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

#### **Net Rental Income from Property Owned by Family**

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. If 1 - 3 above not obtainable, lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

### **G. VERIFICATION OF ASSETS**

#### **Family Assets**

THA will require the necessary information to determine the current cash value, (the net amount the family would receive if the asset were converted to cash).

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.

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3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.
4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment, in the case that the asset is real estate THA may use its internet link to the Tulsa land records to determine the value.
8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

#### **Assets Disposed of for Less than Fair Market Value (FMV)**

1. For all Certifications and Recertifications, THA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.
2. If the family certifies that they have disposed of assets for less than fair market value, verification [or certification] is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

### **H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

#### **Child Care Expenses**

1. Written verification from the person who receives the payments is required. If the childcare provider is an individual, s/he must provide a statement of the amount they are charging the family for their services, which documents only the portion of the charges that are not being reimbursed to the family or directly to the daycare provider.
2. Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care

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occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods, and whether any of the family's payments have been or will be reimbursed by outside sources.

### **Medical Expenses**

Families who claim medical expenses or expenses to assist a person(s) with disability will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration's of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.
4. For attendant care:
  - a. A reliable, knowledgeable medical professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
  - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.
5. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. THA may use this

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approach for “general medical expenses” such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

8. THA will use mileage at the same rate as approved by THA’s Board of Commissioners for THA staff mileage reimbursement, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

### **Assistance to Persons with Disabilities**

#### **1. In All Cases:**

- (a) Written certification from a reliable, knowledgeable medical professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
- (b) Family’s certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

#### **2. Attendant Care:**

- (a) Attendant’s written certification of amount received from the family, frequency of receipt, and hours of care provided.
- (b) Certification of family and attendant and/or copies of canceled checks family used to make payments.

#### **3. Auxiliary Apparatus:**

- (a) Receipts for purchases or proof of monthly payments and maintenance expense for auxiliary apparatus.
- (b) In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **I. VERIFYING NON-FINANCIAL FACTORS**

### **Verification of Legal Identity**

In order to prevent program abuse, THA will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- \* Certificate of Birth, naturalization papers
- \* Church issued baptismal certificate
- \* Driver's license
- \* U.S. military discharge (DD 214)
- \* U.S. passport
- \* Voter's registration
- \* Company/agency Identification Card
- \* Department of Public Safety Identification Card
- \* Hospital records
- \* Records from the Department of Corrections

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- \* Certificate of Birth
- \* Adoption papers
- \* Custody agreement
- \* Health and Human Services ID
- \* School records
- \* Hospital records

### **Verification of Marital Status**

This is used to determine spouse for income and deduction and noncitizen purposes.

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage certificate.

### **Familial Relationships**

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will be required if applicable:

Verification of relationship:

- \* Official identification showing names
- \* Birth Certificates
- \* Baptismal certificates

Verification of guardianship:

- \* Court-ordered assignment
- \* Affidavit of parent
- \* Verification from social services agency
- \* School records

Evidence of a stable family relationship:

- \* Joint bank accounts or other shared financial transactions
- \* Leases or other evidence of prior cohabitation
- \* Credit reports showing relationship

**Verification of Permanent Absence of Adult Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, THA will consider any of the following as verification:

1. Husband or wife institutes divorce action.
2. Husband or wife institutes legal separation.
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
5. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
6. If no other proof can be provided, the HA will accept a self-certification from the family.
7. If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

**Verification of Change in Family Composition**

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THA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, or rehab specialist, using the HUD language as the verification format.

### **Verification of Citizenship/Eligible Immigrant Status**

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants.

Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his or her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while THA hearing is pending.

- (a) Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.
- (b) Eligible Immigrants who were Participants and 62 or over, are required to sign a declaration of eligible immigration status and provide proof of age.
- (c) Noncitizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The HA verifies the status through the INS. If this primary verification fails to verify status, the HA must request within ten days that the INS conduct a manual search.
- (d) Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.
- (e) Noncitizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

**Failure to Provide:** If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and

sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification: For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For participants, it is done at the first regular recertification after June 19, 1995. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in. Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial HA does not supply the documents, the HA must conduct the determination.

Extensions of Time to Provide Documents: Extensions must be given for persons who declare their eligible immigration status but need time to obtain the required documents. The length of the extension shall be based on individual circumstances. The HA will generally allow up to **120** days to provide the document or a receipt issued by the INS for issuance of replacement documents.

Acceptable Documents of Eligible Immigration The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.



### **Verification of Social Security Numbers**

Social Security numbers must be provided as a condition of eligibility for each family member of the household, with the exception of individuals who do not contend eligible immigration status and existing program participants who were at least 62 years of age as of January 1, 2010 and had not previously disclosed an Social Security number. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or Social Security Number from Social Security Administration
- Department of Human Services printout

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by THA. The applicant/participant or family member will have an additional sixty (60) days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, THA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

## **J. WAITING LIST PREFERENCES**

1. Families that claim to be in a care facility must provide:
  - a. Written verification from the care facility where they are currently residing due to a severe medical condition or disability; or
  - b. A written statement from their current caseworker, which will verify the applicant's medical condition or disability, plus their residence in a care facility

2. Families who claim they are being or have been victims of domestic violence:

Written verification from police, social service agency, court, clergy person, physician, and/or public or private facility giving shelter and/or counseling to victims

The family must certify that the abuser will not return to the household without the advance written approval of THA. Before giving approval, THA will require verification of the following:

That the family members involved have been through a counseling program and the service provider believes that a reconciliation is likely; or

Statement from social worker, psychologist, or other profession familiar with the abuser that he/she has received counseling/treatment and is unlikely to continue the abuse

## **Chapter 8**

### **HOUSING CHOICE VOUCHER (HCV) ISSUANCE AND BRIEFINGS**

#### **INTRODUCTION**

The HA's objectives are to assure that families selected to participate are successful in obtaining an acceptable housing unit, and that they have sufficient knowledge to derive the maximum benefit from the program and to comply with program requirements. When families have been determined to be eligible, the HA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, THA procedures, and how to lease a unit. The family will also receive a briefing packet that provides more detailed information about the program. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

#### **ISSUANCE OF HCV**

When funding is available, THA will issue a voucher to applicants whose eligibility has been determined. The issuance of a voucher must be within the dollar limitations set by the ACC budget.

The number of vouchers issued must ensure that THA stays as close as possible to 100% lease-up. THA reviews quarterly the number of vouchers leased to determine the number of units supportable given THA funding levels. THA reviews monthly the number of vouchers leased and the number of terminations to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent THA can over-issue vouchers.

THA may over-issue vouchers only to the extent necessary to meet leasing goals. If the HA finds it is over-leased, it must adjust future issuance of vouchers in order not to exceed the ACC budget limitations for the fiscal year.

#### **BRIEFING TYPES AND REQUIRED ATTENDANCE**

##### **Initial Applicant Briefing**

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups. Families who attend group briefings and still have the need for individual assistance will be referred to their assigned Housing Coordinator.

The purpose of the briefing is to explain the documents in the voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

THA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings, without prior notification and approval of THA, may be denied admission based on failure to supply information needed for certification. The applicant must attend a briefing within the sixty (60) day period that their income verifications are valid. Failure to do so will result in denial of admission.

THA will conduct individual briefings for families with disabilities at their home or at THA's office, upon request by the family, if required for reasonable accommodation.

#### Briefing Packet

The documents and information provided in the briefing packets for the voucher program will comply with all HUD requirements. THA also includes other information and/or materials which are not required by HUD.

The family is provided with the following information and materials:

1. The term of the voucher, and THA policy for requesting extensions to the term of the voucher or suspensions of voucher
2. A description of the method used to calculate the assistance payment, information on Fair Market Rents, payment standards, and utility allowances.
3. How the maximum allowable rent is determined including the rent reasonableness standard.
4. Guidance and materials to assist the family in selecting a unit, such as proximity to employment, public transportation, schools, shopping, and the accessibility of services. Guidance will also be provided to assist the family to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy efficiency, and security.
5. The boundaries of the geographical area in which the family may lease a unit including an explanation of portability.
6. The HUD Tenancy addendum and THA sample lease.

7. The Request for Tenancy Approval form and a description of the procedure for requesting approval for a unit.
8. THA policy on providing information about families to prospective owners.
9. The Subsidy Standards, when and how exceptions are made and how the voucher size relates to the unit size selected.
10. The HUD brochure, “A Good Place to Live” on how to select a unit that complies with HQS.
11. The HUD brochure on lead-based paint.
12. Information on federal, State and local equal opportunity laws including the pamphlet “Fair Housing: It’s Your Right”; the form for reporting suspected discrimination and the phone numbers of the local fair housing agency and the HUD enforcement office.
13. A list of landlords or other parties willing to lease to assisted families or help in the search.
14. If the family includes a person with disabilities, a notice that THA will provide a list of available accessible units known to THA.
15. The Family Obligations under the program.
16. The grounds for termination of assistance because of family action or failure to act.
17. When THA is required to offer an informal hearing, how to request the hearing, and the hearing procedures.
18. An HQS checklist.
19. Requirements for reporting changes between certifications.

#### Other Information to be Provided at the Briefing

The person conducting the briefing will also describe how the program works and the relationship between the family and the owner, the family and THA, and THA and the owner.

The briefing presentation emphasizes:

Family and owner responsibilities under the program;

Where a family may lease a unit inside and outside its jurisdiction;

How portability works for families eligible to exercise portability;

Advantages to moving to area with low concentration of poor families if family is living in a high poverty census tract in the THA's jurisdiction;

Exercising choice in residency;

Choosing a unit carefully and only after due consideration; and

Information on security deposits

If the family includes a person with disabilities, THA will ensure compliance with CFR 8.6 to ensure effective communication.

#### Move Briefing

Move briefings will be held for participants who will be reissued voucher to move, and who have been recertified, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

Families who fail to attend two (2) scheduled move briefings, without prior notification and approval of THA, will be denied a new voucher based on failure to provide required information. THA will not reschedule a move briefing more than three (3) times.

#### Owner Briefing

Briefings are held for owners as necessary. The purpose of the briefing is to assure successful owner participation in the program.

### **ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

At the briefing, families are encouraged to search for housing in non-impacted areas and THA will provide assistance to families who wish to do so.

The assistance provided to such families may include:

- \* Direct contact with landlords.
- \* Meeting with neighborhood groups to promote understanding.
- \* Formal or informal discussions with landlord groups.
- \* Formal or informal discussions with social service agencies.

The Housing Authority will maintain a list participating owner in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low-

income households. The lists of units will be provided at the front desk and at our website [www.tulsahousing.org](http://www.tulsahousing.org), for review by applicants and participants.

## **ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

### **Fair Housing Laws**

THA provides the family with the HUD discrimination complaint form and directs the family to report suspected discrimination to HUD. If HUD Fair Housing makes a finding of discrimination against an owner, THA will restrict the owner from future participation and may terminate any HAP Contracts in effect between THA and the owner.

## **SECURITY DEPOSIT REQUIREMENTS**

Security deposits charged by owners may be any amount the owner wishes to charge, but not more than the maximum prescribed by State or local law.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

## **TERM OF HOUSING CHOICE VOUCHER**

During the briefing session, each household will be issued a voucher which represents a contractual agreement between THA and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

### **Expirations**

The voucher is valid for a period of sixty (60) calendar days from the date of issuance. The family must submit a Request for Tenancy Approval, Lease, and tenancy addendum within the sixty-day period unless an extension has been granted by THA.

If the voucher has expired and has not been extended by THA or expires after an extension, the family will be denied assistance. An applicant family will be entitled to a review while a participant family will be entitled to a hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

### **Suspensions**

When a Request for Tenancy Approval is received, the HA will suspend the term of the voucher and deduct the number of days required to process the request from the 60-day term of the voucher.

## Extensions

THA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted.

THA must approve additional search time if needed as reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of THA's decision to approve or deny an extension. THA's decision to deny a request for an extension of the voucher term is not subject to informal review.

Any request for an additional extension must include the reason(s) an additional extension is necessary. THA may require the family to provide documentation to support the request. THA may approve one 60-day extension.

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

## Assistance to Voucher Holders

Families who require additional assistance during their search may call the THA office to request assistance. THA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

## **HCV ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

In those instances when a family assisted under the Voucher program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, THA shall consider the following factors to determine which of the families will continue to be assisted:

1. Which of the two new family units has custody of dependent children
2. If no dependent children in family, which family member was the head of household when the HCV was initially issued (listed on the initial application)
3. Which family members remain in the unit

Documentation of these factors will be the responsibility of the requesting parties.



If documentation is not provided, THA will terminate assistance on the basis of failure to provide information necessary for a recertification.

Where the breakup of the family also results in a reduction of the size of the voucher the family will be required to move to a smaller unit if the current landlord is unwilling to accept the rent level of the smaller sized voucher.

#### **REMAINING MEMBER OF TENANT FAMILY - RETENTION OF HCV**

To be considered the remaining member of the tenant family, the person must have been previously approved by THA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

1. The court has to have awarded emancipated minor status to the minor, or
2. THA has verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child (ren) for an indefinite period.

A reduction in family size may require a reduction in voucher size.

## **Chapter 9**

### **REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION**

#### **INTRODUCTION**

After families are issued a HCV, they may search for a unit anywhere within the jurisdiction of the HA, or outside of the THA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the HA. This Chapter defines the types of eligible housing, the THA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

#### **REQUEST FOR APPROVAL OF TENANCY**

The Request for Tenancy Approval, (RFTA), and a copy of the proposed Lease, and the tenancy addendum must be submitted by the family during the term of the HCV.

The Request for Tenancy Approval must be signed by both the owner and HCV holder. The lease may be executed up to 60 days prior to contract execution but cannot be executed without approval of the THA. THA will not permit the family to submit more than one RFTA at a time. THA will review the documents to determine whether or not they are approvable.

During the time the RFTA is received, THA will suspend the term of the voucher.

The Request will be approved if:

- The unit is an eligible type of housing
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
- Rent is reasonable
- Lease includes the tenancy addendum
- The owner is approvable, and there are no conflicts of interest.

THA will notify the family and owner in writing upon approval of the RFTA

#### **Disapproval of RFTA**

If THA determines that the RFTA cannot be approved for any reason, the landlord and the family will be notified in writing. THA will instruct the owner and family of the steps that are necessary to approve the RFTA.

THA will disapprove a RFTA for the following reasons:

1. If the family submits a RFTA for a unit that is not ready for THA's inspection; or
2. If the family will pay more than 40% of their monthly adjusted income toward rent unless the gross is equal to or less than the payment standard.

When for any reason, an RFTA is not approved, THA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

### **ELIGIBLE TYPES OF HOUSING**

THA will approve any of the following types of housing in the HCV program:

1. All structure types can be utilized
2. Manufactured homes where the tenant leases the mobile home and the pad
3. Independent Group Residences

A family can own a rental unit but cannot reside in it while being assisted. A family may lease in and have an interest in a cooperative housing development.

THA may not permit a HCV holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

In response to THA's request, the Oklahoma City Area HUD Office waived the requirements of 24 CFR 882.110(d) which limit the total number of units in a project covered by Housing Assistance Payments Contracts, rental assistance or deep subsidy to a maximum of 40% of the total number of units in the projects. The waiver applies to the following projects: Normandy Apartments, Plaza Hills East, Summertree Apartments, and Riverview Village. Therefore, the 40% limitation does not apply to these complexes.

The HA will not approve:

1. A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes described above
2. Nursing homes or other institutions that provide care
3. School dormitories and institutional housing
4. A Public housing or Indian housing unit
5. Any other types of housing prohibited by HUD
  
6. A unit owned by the parent, child, grandparent, grandchild, sister or brother of any member of the tenant's family unless requested as a reasonable accommodation for one or more family members being a person with disabilities.

Special Housing: THA will not participate in the following types of special housing:

- (a) Single Room Occupancy units;
- (b) Congregate Housing;
- (c) Group Home;
- (d) Cooperative Housing;
- (e) Shared Housing; or
- (f) Manufactured Home Space Rental 982.352 (7) (b) PHA-owned & prohibited 982.352 (c) (2) (c) unless requested as a reasonable accommodation for one or more family members being a person with disabilities

## **LEASE REVIEW**

THA will review the lease, particularly noting the approvability of optional charges and compliance with regulations. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

Owners are required to submit the lease in the standard form generally used for other unassisted tenants on the premises. The terms and conditions must be consistent with state and local law.

House Rules of the owner may be attached to the lease as an addendum, provided they were submitted with the RFTA and approved by THA to ensure they do not violate any fair housing HUD provisions.

## **Separate Agreements**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the THA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease such as, air conditioning, dishwasher or garage, or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

THA is not liable for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by THA. If agreements are entered into at a later date, they must be approved by THA and attached to the lease.

### **INITIAL INSPECTIONS**

See Chapter 10, “Housing Quality Standards and Inspections.”

### **DISAPPROVAL OF PROPOSED RENT**

The owner and family negotiate the rent to owner. At the family request, THA will assist the family in negotiating the rent. If the owner does not agree on the Contract Rent after THA has tried and failed to negotiate a revised rent, THA will inform the family and owner that the proposed rent is unacceptable due to unreasonable in comparison to unassisted units.

### **INFORMATION TO OWNERS**

THA is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlord if known. This information will be provided to the owner in writing at the time notification of lease approval is made.

THA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family’s suitability as a tenant. THA will not provide documented information regarding tenancy history.

### **OWNER DISAPPROVAL**

For purposes of this section, “owner” includes a principal or other interested party.

THA will disapprove the owner for the following reasons:

HUD or other agency directly related has informed THA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed THA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

HUD has informed THA that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

The owner has engaged in drug related criminal activity or any violent criminal activity.

In its administrative discretion, THA may deny approval to lease a unit from an owner for any of the following reasons:

The owner has repeatedly violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f)

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 renting units that fail to meet State or local housing codes.

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has a history or practice of failing to terminate tenancy of assisted tenants for activity by the tenant, any member of household, a guest or another person under the control of any household member that:

- (1) Threatens the right to peaceful enjoyment of the premises by other residents;
- (2) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of housing.
- (3) 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
- (4) Is drug-related criminal activity or violent criminal activity.

#### **CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Tenant Payment (TTP) prior to the effective date of the HAP contract, the information will be verified and the TTP will be recalculated. If the family does not report any change, the HA need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

#### **CONTRACT EXECUTION PROCESS**

The HAP contract is a written agreement between THA and the owner of the

dwelling unit occupied by a Housing Choice Voucher family. Under the HAP contract, THA 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.

THA may not pay any housing assistance payment to the owner until the HAP contract has been executed after the unit has passed the Housing Quality Standards (HQS) inspection.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to THA and the assisted family.

The following THA Rental Assistance representatives are authorized to execute a HAP contract on behalf of THA: Vice President of Assisted Housing, Managers, Supervisors, and Housing Coordinators.

Owners must provide an Employer Identification Number or Social Security Number. Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill by submitting copy of the executed deed, and a copy of the Management Agreement if the property is managed by a management agent. Ownership may also be verified through Tulsa County Land Records.

The following THA Rental Assistance representatives are authorized to execute a HAP contract on behalf of THA: Vice President of Rental Assistance, Managers, Supervisors, and Housing Coordinators.

### **CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new contract. An amendment to the existing contract will be executed.

THA will process a change of ownership only upon request of the new owner and only when accompanied by a copy of the filed deed or other document showing the transfer of title, the Employee Identification Number or Social Security number of the new owner, and the amendment signed by both the new owner and the family.

## **Chapter 10**

### **HOUSING QUALITY STANDARDS AND INSPECTIONS**

#### **INTRODUCTION**

The U.S. Department of Housing and Urban Development (HUD) requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits Tulsa Housing Authority (THA) to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and THA established requirements. THA has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations. Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

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.

All utilities must be in service when the unit is inspected. The stove and refrigerator must be present when the unit is inspected regardless of who is supplying the appliances.

This chapter explains HUD and THA requirements related to Housing Quality Standards.

#### **ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS**

THA adheres to the acceptability criteria in the program regulations and HUD Inspection Booklet, specified local codes, and additions as described below.

##### **Local Codes**

1. On Initial, Annual and/or Complaint inspections when the HQS inspector is unable to view the exhaust vents or when deemed necessary by the HQS inspector a Certification from Licensed Contractor that heating equipment is operating properly and safely is required.
2. All heating equipment must have a safety valve that, in the event of equipment failure, will shut off gas supply to the heater.
3. All heating equipment must be installed to meet local city building codes.
4. All disconnected unvented gas heaters must be removed from the unit.

##### **Additions to HQS:**

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Amenities:

Landlords will not be allowed to remove existing amenities (i.e. dishwasher, window A/C units, Central HVAC condensing coil) in-lieu of repair on an annual inspection.

Walls:

All units must be painted every five years or more frequently if deemed necessary by the Inspector.

Any exterior or interior surfaces with peeling or chipping paint must be scraped and painted with two coats of nonlead paint or other suitable material.

Windows:

All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.

Window screens must be in good condition. (Applies only if screens are present)

Doors:

All exterior doors must be weather tight to avoid any air or water infiltration, 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.

Exterior doors cannot have a double-keyed deadbolt lock.

Floors:

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state (no plywood).

Security:

If window security bars or security screens are present on emergency exit window, they must be equipped with a factory installed quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Owners of multi-family dwelling units (one – two family dwellings are not included) are responsible for providing and replacing old batteries for battery powered smoke detectors. All owners shall explain to the lessee or tenant the method of testing the smoke detector to ensure that it is in working order. Tenants will be instructed not to tamper with smoke detectors or remove batteries.

All free-standing fireplaces and/or wood burning stoves must be disabled and vent pipe through ceiling and/or wall must be sealed with suitable material.

Owners are responsible for maintaining perimeter fencing on the property.

**Electrical:**

Light fixture covers/globes must be installed on all light fixtures if the fixture was designed for a cover and/or globe.

An outlet or appliance too near where water may splash is considered a hazard. All bathrooms with an outlet within 6 feet of a water source needs to have a GFI outlet installed.

**Bedrooms:**

Bedrooms must have a minimum floor area of 7'0" x 10'0". The ceiling height throughout the entire 7'0" x 10'0" area must be at least 7'1".

For determining, the applicable fair market rent limitation and/or payment standard, the HQS Inspector will determine how many bedrooms a unit has by determining how many bedrooms the unit had at construction. The modification of existing floor space (i.e. dining room, etc.) will not be considered for use as a bedroom.

All bedrooms must have a permanently installed clothes closet.

## **INSPECTIONS**

THA conducts an inspection in accordance with Housing Quality Standards. The inspection is scheduled at least 90 days prior to the last inspection date. Special inspections may be scheduled between annual/biennial inspection dates. The landlord must correct HQS deficiencies that cause a unit to fail unless it is a fail for which the tenant is responsible.

The family must allow THA to inspect the unit at reasonable times with reasonable notice.

Inspections will be conducted on business days only.

Reasonable hours to conduct an inspection are between 8:00 a.m. and 4:30 p.m.

THA will notify the family in writing at least seven (7) days prior to the inspection.

The family and owner are notified of the date and time of the inspection appointment by mail or phone. If the family is unable to be present, they must call 24 hours in advance to reschedule the appointment so that the inspection is completed within twenty-eight (28) days.

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### Procedure when HQS Appointments are Missed

For most purposes in this plan, the family will be given two (2) opportunities before being issued a notice of termination or denial for breach of a family obligation. Where the family fails to appear at a scheduled HQS inspection, a notice of missed appointment is mailed with a new date and time of appointment. If the second appointment is missed, a termination notice will be sent.

After issuance of the termination notice, if the family requests a hearing within the allotted time and attends the hearing and explains or provides documentation to justify the absence, one additional appointment will be made. If the family fails to show for the hearing or the appointment, the termination stands effective as of the previous termination date. The family may also choose to waive their hearing and another inspection date will be scheduled. The family will not be given another opportunity for a hearing.

Repair Re-inspection: The family and owner are mailed a notice of the re-inspection appointment by mail. The notice includes a list of required repairs. If the family is not at home for the re-inspection appointment notice of termination of housing assistance is sent to the family. The re-inspection appointment letter contains a warning of abatement (in the case of owner responsibility), and a warning of assistance termination (in the case of family responsibility).

The family is also notified that it is a Family Obligation to allow the HA to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance," they will be advised of their responsibility to correct.

### Time Standards for Repairs

- Emergency items, which endanger the family's health or safety, must be corrected within 24 hours of notification or 72 hours if the owner cannot be contacted by phone.
- For non-emergency items, repairs must be made within 28 days, however, depending on the nature of the repair the Inspector has the discretion to determine a date prior to the 28<sup>th</sup> day.
- For major repairs, the HQS Manager or Vice President of Rental Assistance may approve an extension beyond 30 days.

### **EMERGENCY REPAIR ITEMS**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

- \* Lack of security for the unit
- \* Waterlogged ceiling in imminent danger of falling
- \* Major plumbing leaks or flooding
- \* Natural gas leak or fumes
- \* Electrical problem, which could result in shock or fire
- \* Inadequate heat when temperature inside unit is below 68 ° F
- \* Utilities not in service

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- \* No running hot water
- \* Broken glass where someone could be injured
- \* Obstacle which prevents tenant's entrance or exit
- \* Lack of functioning toilet

THA may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified, or it is impossible to affect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified, or it is impossible to affect the repair, proper authorities will be notified by THA.

If the emergency repair item(s) are not corrected in the time period required by THA, and the owner is responsible, the housing assistance payment will be abated, and the HAP contract will be terminated immediately (at the end of month).

If the emergency repair item(s) are not corrected in the time period required by THA, and it is an HQS breach which is a family obligation, THA will terminate the assistance to the family and the owner's payment will not be abated for the breach of HQS.

#### **CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by THA, the assistance payment to the owner will be abated.

##### **Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective the day of the failed inspection. The abatement notice is generally for Sixty (60) days, depending on the nature of the repair(s) needed.

THA will inspect abated units within five (5) days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

For re-inspections following an abatement of payments THA will advise owners of their responsibility to notify the tenant of when the re-inspection will take place. (For all other re-inspections, THA will notify the family in writing of the date and time of the re-inspection.)

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for THA's portion of rent that is abated.

#### Reduction of Payments

THA will grant an extension in lieu of abatement in the following cases and only if THA is notified by the owner within seven (7) days of the date of the repair letter:

- \* The HQS Manager determines that good cause for an extension exists.
- \* The owner makes a good faith effort to make the repairs.
- \* The repairs must be delayed due to climate conditions.

The extension will be made for a period not to exceed thirty (30) days. At the end of that time, if the work is not completed, THA will begin the abatement of assistance payments.

#### Termination of Contract

If the owner is responsible for repairs and does not plan to correct all the deficiencies cited, THA will terminate the HAP Contract upon thirty (30) days notice to the owner. No abatement of payments will occur provided the owner advises THA, in writing, of their intent not to complete the repairs within seven (7) days of the date of the repair letter.

If the owner is responsible for repairs and fails to correct all the deficiencies cited prior to the end of the abatement period and did not advise THA of their intent not to correct the deficiencies as discussed above, the owner will be sent a HAP Contract Termination notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by THA if the tenant chooses to remain in the unit. Only one (1) Housing Quality Standards inspection will be conducted after the termination notice is issued.

### **OWNER AND FAMILY RESPONSIBILITIES**

#### Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

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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 that could be charged against the tenant's security deposit under state law or court practice.

The owner is responsible for all other HQS violations.

The owner of multiple family dwellings (duplex, triplex, four-plex apartment communities are responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. THA may terminate the family's assistance on that basis.

The inspector will make a determination of owner or family responsibility during the inspection.

### **CONSEQUENCES IF FAMILY IS RESPONSIBLE**

If non-emergency violations of HQS are determined to be the responsibility of the family, THA will require the family make any repair(s) or corrections within twenty-eight (28) days. If the repair(s) or correction(s) are not made in this time period, THA will terminate assistance to the family. HQS Manager, Vice President of Rental Assistance or Senior Managers must approve extensions in these cases. The owner's rent will not be abated for items, which are the family's responsibility.

If the family repairs or corrects the HQS violations for which they are responsible during the time period between notification of assistance termination and the effective date of the termination of assistance, the HA will conduct one (1) re-inspection of the property. If the Inspector determines that the HQS violations have been repaired or corrected, the family's assistance will be reinstated. If the Inspector determines that any HQS violations have not been adequately repaired or corrected, the termination of the family's assistance will stand.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

## **TYPES OF INSPECTIONS**

### **Initial Inspections**

THA 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.

If the unit fails the initial Housing Quality Standards inspection, the family and owner will be advised to notify THA once repairs are completed.

On an initial inspection, the owner will be given up to fifteen (15) days to correct the items noted as failed.

The owner will be allowed up to three (3) re-inspections for repair work to be completed.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

### **Annual/Biennial Inspections**

HUD requires THA to inspect each unit under lease at least annually or biennially (every two years), subject to THA's policy, to confirm that the unit still meets HQS. Each unit under HAP contract must be inspected annually within 24 months of the last full HQS inspection. The inspection may be conducted in conjunction with the family's annual reexamination, but also may be conducted separately. THA reserves the right to require annual inspections of any owner at any time.

### **Special/Complaint Inspections**

If at any time the family or owner notifies THA that the unit does not meet Housing Quality Standards, THA will conduct an inspection.

THA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

THA will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the annual/biennial inspection has been scheduled or is due within 120 days of the date the special inspection is scheduled, THA may elect to conduct a full inspection.

## **QUALITY CONTROL INSPECTIONS**

The HQS Manager will perform Quality Control inspections or his/her designee based on the chart in Chapter 1 page 1-10. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.



## **Chapter 11**

### **OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**

#### **INTRODUCTION**

THA is responsible to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. When THA has determined that the unit meets the minimum HQS, and that the rent is reasonable, it will make timely payments to the owner. This Chapter explains THA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

#### **A. RENT TO OWNER IN THE HCV PROGRAM**

The voucher size issued to the family is based on THA's Subsidy Standards. The payment standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected.

The Housing Assistance Payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

THA will not require a reduction of the initial rent to owner because of other governmental assistance.

A family may pay over 40% of monthly adjusted income

1. When the owner receives a rent increase.
2. When a participant family signs a new lease for the same unit, or
4. Any time after the family initially leases the unit as long as they remain in the same unit.

#### **B. MAKING PAYMENTS TO OWNERS**

Once the HAP Contract is executed, the THA begins processing payments to the landlord. The effective date and the amount of THA payment is communicated by letter sent to both the landlord and family.

A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month based on data entered by Rental Assistance staff. Payments is disbursed by the Accounting Department to the owner each month. Payments will only be disbursed on the first business day of the month, and only after THA receives funds from the Department of Housing and Urban Development. At THA's discretion, payments may be disbursed at other times of the month.

Payments that are not received will not be replaced until a stop payment has been put on the check. THA will not pay late fees to landlords for delayed, lost or stolen assistance payments.

### **C. RENT REASONABLENESS DETERMINATIONS**

THA will determine and document that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market.

THA may not approve a lease until the initial rent to owner is determined to be a reasonable rent. THA must determine if the rent is reasonable: (i) Before any increase in the rent to owner; (ii) If there is a 5% decrease in the published Fair Market Rent in effect 60 days before the contract anniversary as compared with the Fair Market Rent in effect one year before the contract anniversary; or (iii) If directed by HUD. THA may also determine if the rent is reasonable at any other time.

#### **Factors to Consider**

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. THA 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

#### **Rents Charged for Other Units on the Premises**

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

By accepting THA'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 THA information regarding rents charged for other units on the premises.

THA utilizes a rent reasonableness system which includes and defines the HUD factors listed above. At least three (3) comparable units will be used for each rent determination.

The data for other unassisted units may be gathered from rental agencies, inquiries of owners, newspapers, and/or other available sources. Comparables submitted by owners with an interest

in the outcome of a rent reasonableness determination will be considered once verified by THA staff.

In considering location, the market areas for rent reasonableness are defined quadrants within the THA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

THA maintains an automated database which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated and added to at least annually.

#### **D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**

The Payment Standard is initially set by THA at the Fair Market Rent in effect at the time the Annual Contributions Contract for the first increment of Voucher funding is approved by HUD. The Payment Standard is used to determine the maximum subsidy which can be paid by THA on behalf of the family.

#### **E. ADJUSTMENTS TO VOUCHER PAYMENT STANDARDS**

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families' rents affordable. THA will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will the HA raise Payment Standards if the need is solely to make "high end" units available to Voucher holders.

THA will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD's requirements and this policy and if an increase is warranted, the payment standard will be adjusted to 90-110% of the current Fair Market Rent.

THA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

##### **Assisted Families' Rent Burdens**

THA may review reports showing the percent of income used for rent by Voucher families to determine the extent to which the rent burden is more than 30% of income.

##### **Availability of Suitable Vacant Units Below the Payment Standard**

THA may review its rent reasonableness database and vacancy rate data to determine whether there is an ample supply of vacant units below the Payment Standard.

##### **Quality of Units Selected**

THA may review the quality of units selected by participant families before determining any change to the Payment Standard to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

THA will review the quality and size of units where the Rents to Owner are above the Payment Standard by more than 25%. If more than 50% of families have selected above-average units or have selected larger units than the Voucher size, the HA may elect not to increase the Payment Standard or continue the analysis.

If the analysis continues, THA will divide those rents between contracts within the first year and after the first year. If the Rents to Owner are more than 25% above the average, in any bedroom size, THA will continue the analysis. If not, THA may elect not to increase the Payment Standard for certain bedroom sizes.

### **Rent to Owner Increases**

THA may review a sample of the units to determine how often owners are increasing rents after the first year of the lease and the average percent of increase by bedroom size. The sample will be divided into units with and without the highest cost utility included.

A comparison will then be made to the applicable annual adjustment factor to determine whether owner increases are excessive in relation to the published annual adjustment factor.

### **Time to Locate Housing**

THA may consider the average time period including extensions for families to lease up under the HCV program in determining whether to adjust the payment standard

### **Rent Reasonableness Data Base/Average Contract Rents**

THA may compare the Payment Standards to average rents in its Rent Reasonableness Data Base and to the average Contract Rents by unit size. The Payment Standards should be on a par with these amounts.

### **Lowering of the Payment Standard**

Statistical analysis may reveal the Payment Standard should be lowered, in which case, the Payment Standard should not be less than 90% of the current FMR. If the FMR is lowered, the Payment Standard may not exceed the FMR except in those cases where families are held harmless until they move to a different dwelling unit or have a change in family composition which would affect their Voucher size.

### **Financial Feasibility**

Before increasing the Payment Standard, THA may review the budget and the project reserve, to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, THA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

**File Documentation**

A file will be retained by THA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

**F. RENT ADJUSTMENTS**

Owners may not request rent adjustments in the Voucher program to be effective prior to the expiration of the first year of the lease. Rent adjustments are effective, with a sixty-day notice to the family and a copy to the THA. THA will advise the family as to whether the rent is reasonable and shall approve or disapprove the rent increase.

## **Chapter 12**

### **RECERTIFICATIONS**

#### **INTRODUCTION**

HUD requires that the HA recertify the income and household composition of all families at least annually. In addition, the HA is required to inspect the assisted unit at least annually, and to process requests for rent adjustments in the Section 8 programs. These activities must be coordinated to ensure that they are completed in accordance with the regulation. It is a HUD requirement that families report all changes in household composition, but the HA decides what other changes must be reported, and the procedures for reporting them. This Chapter defines the HA's policy for conducting annual recertification's and coordinating the three annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### **A. ANNUAL ACTIVITIES**

There are three activities THA must conduct on an annual basis. These activities will be coordinated whenever possible:

1. Recertification of Income and Family Composition
2. HQS Inspection
3. Contract Rent Adjustment when requested by Owner

THA produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to Total Tenant Payment can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Section 8 Housing Coordinator assigned to the case.

Annual activities for contracts that did not commence on the first of the month will be conducted no later than the first of the month following the month in which the lease was effective.

Annual inspections: See Chapter 10, "Housing Quality Standards and Inspections"

Rent Adjustments: See Chapter 11, "Owner Rents, Rent Reasonableness and Payment Standards"

#### **B. ANNUAL RECERTIFICATION/REEXAMINATION**

Families are required to be recertified at least annually. At the first interim or annual certification on or after June 19, 1995, family members must report and verify their U.S. citizenship/eligible immigrant status.

When families move to another dwelling unit:

An annual recertification will be scheduled, and the anniversary date will be changed.

Income limits are not used as a test for continued eligibility at recertification unless the family is moving under portability.

### **Reexamination Notice to the Family**

THA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least ninety (90) days in advance of the anniversary date. If requested as an accommodation by a person with a disability, THA will provide the notice in an accessible format. THA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

#### **Procedure**

THA's procedure for conducting annual re-certifications will be to schedule the date and time of appointments and mail or email a notification to the family.

#### **Persons with Disabilities**

Persons with disabilities, who are unable to come to THA's office will be granted an accommodation of conducting the interview at the person's home or having the recertification paperwork mailed to the family, upon verification that the accommodation requested meets the need presented by the disability.

### **Collection of Information**

THA will require the family to complete all THA required forms in order to complete the all recertification interviews.

### **Requirements to Attend**

All adult household members will be required to attend the recertification interview. If the head of household is unable to attend the interview, the appointment will be rescheduled. An exception will be made for families that are elderly or disabled. Families that the head of household or spouse are elderly or disabled will receive the recertification correspondence by mail and be required to complete and return the paperwork timely.

### **Failure to Respond to Notification to Recertify**

The written notification will state which family members are required to attend the interview. The family may call to request another appointment date up to two (2) working hours prior to the interview.

If the family does not appear for the recertification interview and has not rescheduled or made prior arrangements with THA, staff will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, THA will terminate assistance to the family, and offer them an informal hearing. Exceptions will be made if the Tenant contacts THA prior to the 5 days to request a hearing. The family may waive their chance for a hearing and another appointment will be scheduled. The family will not be given another appointment for a hearing for this reason.

### **Verification of Information**

THA will follow the verification procedures and guidelines described in this Plan.

### **Tenant Rent Increases**

If tenant rent increases, a thirty-day notice is mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, the tenant rent increase will be effective on the first of the month following the thirty-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by THA.

## **C. REPORTING INTERIM CHANGES**

HUD requires program participants to report all changes in household composition to the HA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain HA approval prior to all other additions to the household.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.



An interim reexamination does not affect the date of the annual recertification.

### **Decreases in Income**

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. THA must calculate the change if a decrease in income is reported.

### **HA Errors**

If THA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

## **D. NOTIFICATION OF RESULTS OF RECERTIFICATIONS**

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the HA. If the family disagrees with the rent adjustment they may request an informal hearing.

## **E. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)**

### **Standard for Timely Reporting of Changes**

THA does not require families to report increases in income, including new employment, and/or increases in assets between annual reexaminations unless the increase is a result of a family composition change. These changes must be reported in writing within thirty (30) days of the effective date of the change.

Families may report decreases in income/assets in writing within thirty (30) days of the effective date of the change and THA will conduct an interim reexamination should the decrease in income result in a decrease in the tenant rent portion.

If the changes are not reported within the required time-period, or if the family fails to provide documentation or signature, it will be considered untimely reporting.

THA will conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In other cases, depending on the circumstances, THA will note the information in the tenant file, but not conduct an interim reexamination.

### **Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. THA must process the request if the family reports a change that will result in a reduced tenant rent portion.

### **Procedures when the Change is Reported in a Timely Manner**

THA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

Decreases in the Tenant Rent are effective the first of the month following the month in which the change was reported to THA. All paperwork necessary to make the change will be mailed to the family. No rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

### **Procedures when the Change is Not Reported by the Tenant in a Timely Manner**

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date the income began. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment.

Decrease in Tenant Rent will be effective on the first of the month following completion of processing by the HA and not retroactively.

### **Procedures when the Change is Not Processed by THA in a Timely Manner**

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by THA in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by THA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

## **F. REPORTING OF CHANGES IN FAMILY COMPOSITION**

All changes in family composition must be reported within thirty (30) days of the occurrence.

### **Increases in Family Size**

Increases other than by birth, adoption or court-awarded custody must have the prior approval of the owner and THA.

If an addition would result in overcrowding according to HQS maximum occupancy standards, the HA will issue a larger HCV (if needed under the Subsidy Standards) for additions to the family in the following cases:

- \* Addition by marriage/or marital-type relation.

- \* Addition of a member who is a member of the nuclear family who has been living elsewhere.

- \* Addition of a HA-approved live-in attendant.

- \* Addition due to birth, adoption or court-awarded custody.

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to over-crowding, the change in HCV shall be made effective immediately.

#### **G. CONTINUANCE OF ASSISTANCE FOR “MIXED” FAMILIES**

Under the Noncitizens Rule, “Mixed” families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

“Mixed” families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

1. The head of household or spouse is a U.S. citizen or has eligible immigrant status;  
AND
2. All members of the family other than the head, the spouse, parents of the head, parents of the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, the family may choose prorated assistance (See Chapter 6, “Factors Related to Total Tenant Payment Determination”), or THA may offer temporary deferral of termination (See Chapter 15, “Denial or Termination of Assistance”).

## **Chapter 13**

### **MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

#### **INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within the HA's jurisdiction, or to a unit outside of the HA's jurisdiction under Portability procedures. The regulations also allow the HA the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the HA's jurisdiction, and the policies for restriction and limitations on moves.

#### **A. ALLOWABLE MOVES**

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated because THA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner).

#### **B. RESTRICTIONS ON MOVES**

Eligible families will be permitted to move within the THA's jurisdiction during the initial year of assisted occupancy.

Participating families will not be permitted to move outside the THA's jurisdiction under portability procedures during the initial year of assisted occupancy, unless there is an emergency situation or as a reasonable accommodation. Those incidences will be reviewed on a case by case basis.

A family will be permitted to move prior to the expiration of the initial term lease only when the lease is being terminated by mutual agreement of the owner and the family or THA has terminated the HAP contract for the owner's breach.

If a family is being evicted, THA will review the landlord's notice to vacate to determine whether or not the eviction is for serious or repeated violations of the lease. If the grounds for eviction cited by the landlord indicate serious or repeated lease violation, the family will be considered in violation of their lease and ineligible to receive a HCV to move with assistance. The family will be advised to attend all court proceedings relating to the eviction. If the family is evicted, their assistance will be terminated. If the family is successful in avoiding eviction, they may remain in place with continued assistance if they are in the first twelve months of their lease, or the family may terminate the lease if they have a right to do so.

THA may deny permission to move if there is insufficient funding for continued assistance and may deny permission to move if:

1. The family has violated a Family Obligation
2. The family owes the HA money and has not satisfied the debt
3. The family has moved or been issued a HCV within the last twelve (12) months

The Senior Manager or Vice President of Rental Assistance may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control. Documentation of such emergency must be provided before consideration will be given. Eviction of the family by the landlord will not be considered an emergency reason.

### **C. PROCEDURE FOR MOVES**

#### **Issuance of HCV**

If the family has been recertified within the last 120 days, THA will issue the HCV to move as soon as the eligible family requests the move. THA will begin the recertification process at the same time to ensure the annual recertification date coincides with the new lease-up date.

If the family does not locate a new unit, they may remain in the current unit so long as the family and owner rescind, in writing, prior to the lease and HAP contract termination date. A copy of the rescission must be submitted to the HA.

### **Notice Requirements**

Briefing sessions advise the family of their responsibility to give the owner and the HA proper written notice of any intent to move. All families will be notified of the advantages to moving to areas with low poverty areas.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the HA simultaneously.

### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the participant ceased to occupy. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

## **D. PORTABILITY**

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based-voucher program. 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 and 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.

### **Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is a least one PHA administering a voucher program. If there is more than one PHA in the area, the initial PHA will assist the family in selecting a PHA and provide the PHA's contact information.

Applicant families may be denied the right for portability to non-resident applicants during the first 12 months after they are admitted to the program. If neither the head of household nor the spouse/co head of an applicant family had a legal residence in THA's jurisdiction at the time the family's application for assistance was submitted, the family must live in THA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

THA will consider exceptions to this policy for the purposes of reasonable accommodation or reasons related to domestic violence, dating violence, and sexual assault or stalking.

#### **E. OUTGOING PORTABILITY**

THA will provide pre-portability counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, THA will determine if the family is within the very low-income limit of the receiving PHA. If the receiving PHA will absorb and the participant family will be changing its form of assistance and advise the family accordingly. THA will advise the family how to contact and request assistance from the receiving PHA.

THA will notify the receiving PHA that the family will be moving into its jurisdiction and provide the following documents and information to the Receiving HA:

1. A copy of the family's Voucher
2. A copy of the most recent HUD 50058 form and verifications
3. Declarations and verifications of U.S. citizenship/eligible immigrant status
4. Form HUD-52665, Family Portability Information, with Part I completed

The receiving PHA must submit the initial billing notice within 60 days following the expiration date of the voucher issued to the family by THA. If THA does not receive a billing notice by the deadline, THA will contact the receiving PHA to confirm if the family is under a HAP contract.

#### **Payment to the Receiving HA**

When THA receives the form HUD-52665 from the receiving PHA, payments will be issued to the receiving PHA on behalf of the family. The issuance of payments is to be made with 30 calendar days of receiving the HUD-52665.

#### **F. INCOMING PORTABILITY**

### **Absorption or Administration**

THA will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. In such cases, THA becomes the receiving housing authority. If administering, the family will be issued a voucher by THA with the same start date. THA may grant extensions in accordance with this Administrative Plan.

THA will absorb all incoming families provided that there is funding available. When THA does not absorb the incoming vouchers, it will administer the initial housing authority's voucher and THA's policies will prevail.

THA will issue a voucher to the incoming portable family according to its own subsidy standards. If the family has a change in family composition which would change the voucher size, THA will change to the proper size based on its own Subsidy Standards.

THA will decide whether to extend the voucher issued by the receiving housing authority, however, the expiration date must be at least 30 days after its original voucher expiration date. THA's policy on suspensions will apply. However, if the family decides not to lease up in the THA's jurisdiction, the family may request an extension from the initial housing authority.

### **Income and TTP of Incoming Portables**

As the receiving housing authority, THA will conduct a recertification interview. If a participant family's income exceeds the income limit of the HA, the family will not be denied assistance, unless the family is an applicant and over the Very-Low Income Limit.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in THA's jurisdiction, THA will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **Requests for Tenancy Approval**

When the family submits a Request for Tenancy Approval, it will be processed using THA's policies. If the family does not submit a Request for Tenancy Approval or does not execute a lease, the initial housing authority will be notified promptly. THA will notify the family of its responsibility to contact the initial housing authority if the family wishes to move outside the THA's jurisdiction.

If the family leases up successfully, THA will notify the initial housing authority that the HAP contract was executed, and the billing process will commence.

### **Terminations**



THA will notify the initial housing authority in writing of any termination of assistance. If an informal hearing is required and requested by the family, the hearing will be conducted by THA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial housing authority.

The initial housing authority will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial housing authority notifies THA that the family is in arrears or the family has refused to sign a repayment agreement, THA will terminate assistance to the family.

### **Required Documents**

As Receiving HA, THA will require the following documents from the Initial HA:

1. Portability Form (HUD 52665)
2. A copy of the family's voucher
3. A copy of the most recent HUD 50058 form and verifications
4. Declarations and verifications of U.S. citizenship/eligible immigrant status

As Receiving HA, the HA may request the following documents from the Initial HA:

1. Copies of SSN verification and birth documentation
2. Persons designated for inquiries on eligibility and mailing
3. The Administrative Fee Schedule for billing purposes

### **Billing Procedures**

As the receiving housing authority, THA will bill the initial housing authority monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees, will be monthly unless requested otherwise by the initial housing authority.

THA will bill 100% of the Housing Assistance Payment, 80% of the Administrative Fee at the initial housing authority's rate, not to exceed THA's rate, and any other HUD-approved fees, for each voucher leased as of the first day of the month.

THA will notify the initial housing authority of changes in subsidy amounts in writing on the HUD 52665, and will expect the initial housing authority to notify THA of changes in the Administrative Fee amount to be billed.

## **Chapter 14**

### **CONTRACT TERMINATIONS**

#### **INTRODUCTION**

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the HA which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the HA and the owner, and the policies and procedures for such terminations.

#### **A. CONTRACT TERMINATION**

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the HA may be terminated by the HA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the HA to the owner after the month in which the Contract is terminated. The owner must reimburse the HA for any subsidies paid by the HA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the HA for vacancy loss under the provisions of Certificate contracts executed under the Combined Rule effective October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. TERMINATION BY THE FAMILY: MOVES**

The lease should stipulate that the family cannot move from the unit until after the first term of the lease. The notice period to the landlord is determined by the lease and tenancy addendum.

### **C. TERMINATION BY THE OWNER: EVICTIONS**

If the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and State/local law. The owner and tenant must provide the HA with a copy of the eviction notice.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The 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 HAP Contract requires that the owner may only evict for the following reasons:

1. Serious or repeated violation of the terms and conditions of the lease,
2. Violation of Federal, State or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises,
3. Other good cause, including:

Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or THA staff.

Any drug-related criminal activity on or near the premises,

Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premises.

4. Other good cause, after the first term of the lease, includes:

Business or economic reason for regaining possession of the unit;  
Owner's desire to repossess the unit for personal use;  
Tenant's refusal to accept offer of a new lease.

The eviction notice must specify the cause for the eviction.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, THA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

THA will continue housing assistance payments until the family moves or is evicted from the unit, whichever occurs first.

If the action is finalized in court, the owner must provide the HA with the documentation, including notice of the lock-out date.

THA must continue making housing assistance payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit, the Contract is in force, and the Contract is not violated. By endorsing the monthly check from THA, the owner certifies that the tenant is still living in the unit and s/he is in compliance with the contract.

If the eviction is not due to a serious or repeated violation of the lease, and if the THA has no other grounds for termination of assistance and the family is otherwise eligible, the THA will issue a new certificate or voucher so that the family can move with continued assistance.

#### **D. TERMINATION OF THE CONTRACT BY THA**

The term of the HAP contract terminates when the lease terminates, when the THA terminates program assistance for the family, or when the owner has breached the HAP contract.

Any of the following actions may be considered a breach of contract by the owner:

1. The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit to HQS standards, including any standards THA has adopted in this policy.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
3. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
4. The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
5. The owner has engaged in drug trafficking.
6. THA may refuse to enter into HAP contract with owner who refuses or has history of refusing to terminate tenancy to families who threaten health or safety of other residents, managers HA employees.

THA may also terminate the contract if:

The THA terminates assistance to the family.

The family is required to move from a unit which is under-occupied or overcrowded.

Funding is no longer available under the ACC.

The contract will terminate automatically if 6 months/180 days have passed since the last housing assistance payment to the owner according to the contract.

### **Notice of Termination**

THA will provide the owner and family with at least thirty days written notice of termination of the contract.

### **E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS**

For families who were participants on June 19, 1995, terminations due to the ineligible immigration status of all members of the family, or because a “mixed” family chooses not to accept proration of assistance, may be temporarily deferred for intervals not to exceed six months (up to a maximum of three years) if necessary to permit the family additional time for transition to affordable housing.

The family will be notified in writing at least 60 days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- a) Granting another deferral will result in an aggregate deferral period of longer than three years, or
- b) A determination has been made that other affordable housing is available.

### **F. TERMINATION DUE TO OWNER DISAPPROVAL**

If the HA terminates the contract due to owner disapproval (See Chapter 9, “Request for Tenancy Approval and Contract Execution”), THA will provide the owner and family with at least thirty days written notice of termination of the contract.

## **Chapter 15**

### **DENIAL OR TERMINATION OF ASSISTANCE**

#### **INTRODUCTION**

The HA may deny or terminate assistance for a family because of the family's action or failure to act. The HA will provide families with a written description of the Family Obligations under the program, the grounds under which the HA can deny or terminate assistance, and the HA's informal hearing procedures. This Chapter describes when the HA is required to deny or terminate assistance, and the HA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

#### **GROUND FOR DENIAL/TERMINATION**

If denial or termination is based upon behavior resulting from a disability, THA will delay the denial or termination in order to determine if there is an accommodation which would meet or negate the behavior resulting from the disability.

#### **Form of Denial/Termination**

Denial of assistance for an applicant may include any or all of the following:

1. Denial for placement on THA waiting list
2. Denying a HCV or withdrawing a HCV.
3. Refusing to enter into a HAP contract or approve a lease
4. Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP contract or approve a lease
2. Terminating housing assistance payments under an outstanding HAP contract
3. Refusing to process or provide assistance under portability procedures

### Mandatory Denial and Termination

The HA must deny assistance to applicants, and terminate assistance for participants:

1. If any member of the family fails to sign and submit HUD or THA required consent forms for obtaining information.
2. If no member of the family is a U.S. citizen or eligible immigrant.
3. If the family is under contract and 12 months have elapsed since THA's last housing assistance payment was made depending of the contract.
4. If the family was evicted from federally-assisted housing for serious violation of the Lease.
5. If the family is convicted of manufacturing or producing methamphetamine on premises of assisted housing. "Premises" is building or complex in which dwelling unit is located, including common areas and grounds. (Requires permanent denial/termination of assistance.)
6. Households with a member who is subject to a lifetime registration requirement under a state sex offender registration program.

### Grounds for Denial or Termination of Assistance

THA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

1. The family violates any family obligation under the program as listed in 24 CFR 982.551.

In cases where a family member has committed fraud/program abuse in connection with a Section 8 or Public Housing program, the family will be denied participation for a minimum of five (5) years but not more than ten (10) years. The length of time a family member is ineligible for assistance will be determined by the Vice President of Rental Assistance or Senior Manager.

2. Any member of the family has ever been evicted from public housing.
3. The family currently owes rent or other amounts to THA or to another HA in connection with Section 8 or public housing assistance.
4. The family has not reimbursed any HA 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.

5. The family breaches an agreement with an HA to pay amounts owed to an HA, or amounts paid to an owner by an HA.
6. The family has engaged in or threatened abusive or violent behavior toward THA personnel.

“Abusive or violent behavior towards THA personnel” includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

“Threatening” refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

Actual physical abuse or violence will always be cause for termination.

7. If THA determines that an assisted family member’s abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other families (see Appendix I).

#### Welfare to Work

Willful and persistent abuse of the program is grounds for termination of assistance. Willful and persistent abuse is defined as termination of TANF benefits (other than the family no longer qualifies due to income) by the TANF provider and/or failure to fulfill the obligations and conditions of the Welfare to Work contract.

#### Family Self Sufficiency (FSS)

Failure to fulfill the obligations and conditions of the FSS contract is grounds for termination of assistance.

The HA will not terminate assistance for FSS families who fail to comply with the FSS Contract of Participation without good cause.

### **FAMILY OBLIGATIONS**

1. The family must supply any information that THA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 812). “Information” includes any requested certification, release or other documentation.
2. The family must supply any information requested by THA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.



3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR part 750) and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 760 and 24 CFR part 813.
4. All information supplied by the family must be true and complete.
5. The family is responsible for an HQS breach caused by the family as described in 982.404(b). (See Chapter 10, “Housing Quality Standards and Inspections”.)
6. The family must allow THA to inspect the unit at reasonable times and after reasonable notice.
7. The family may not commit any serious or repeated violation of the lease.
8. The family must notify the owner and, at the same time, notify THA before the family moves out of the unit or terminates the lease on notice to the owner.
9. The family must promptly give the HA a copy of any owner eviction notice. (“Promptly” in this case is defined as within one week of family’s receipt.)
10. The family must use the assisted unit for residence by the family. The unit must be the family’s only residence.
11. The composition of the assisted family residing in the unit must be approved by THA. The family must promptly inform THA of the birth, adoption or court-awarded custody of a child. The family must request THA approval to add any other family member as an occupant of the unit. (“Promptly” in this case is defined as within thirty (30) days.)
12. The family must promptly notify THA if any family member no longer resides in the unit. (“Promptly” in this case is defined as within thirty (30) days.)
13. If THA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or THA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
14. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family. (Note: The owner’s lease may prohibit such use by household members.)
15. The family must not sublease or let the unit.
16. The family must not assign the lease or transfer the unit.
17. The family must supply any information or certification requested by THA to verify that the family is living in the unit, or relating to family absence from the unit, including any

THA requested information or certification on the purposes of family absences. The family must cooperate with THA for this purpose. The family must promptly notify the THA of absence from the unit.

18. The family must not own or have any interest in the unit.
19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
20. The members of the family may not engage in drug-related criminal activity or violent criminal activity.
21. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

#### Housing Authority Discretion

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, THA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

THA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. THA may permit the other members of a family to continue in the program.

### **ENFORCING FAMILY OBLIGATIONS**

#### Explanations and Terms

Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

**HQS Breach:** The HQS Inspector or HQS Manager will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the HQS Manager or Vice President of Rental Assistant or Senior Managers.

**Lease Violations:** The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If the owner notifies the family of termination of tenancy for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the HA determines that the cause is a serious or repeated violation of the lease based on available evidence.

Notification of Eviction: If the family requests assistance to move and they did not notify THA of an eviction within one week of receiving the Notice of Lease Termination, the move will be denied.

Proposed additions to the family may be denied to:

- Persons who have been evicted from public housing.
- Persons who have previously violated a family obligation listed in 24CFR 982.551 of the HUD regulations.
- Persons who have been part of a family whose assistance has been terminated under the HCV program.
- Persons who commit drug-related criminal activity or violent criminal activity.
- Persons who do not meet the THA's definition of family.
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Persons who currently owe rent or other amounts to THA or to another HA in connection with Section 8 Housing Choice Voucher or Public Housing assistance under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward THA personnel.

Family Member moves out:

Families are required to notify THA if any family member leaves the assisted household. When the family notifies THA, they may be required to furnish the following information:

The date the family member moved out.

The new address of the family member

Documentation of legal separation or pending divorce in the case of married couples.

Limitation on Profit-making Activity in Unit:

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.

If THA determines that the use of the unit as a business is not incidental to its use as a dwelling unit.

Interest in Unit: The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Certificate Program.

Fraud: In each case, THA will consider which family members were involved, the circumstances, and any hardship that termination of assistance might be caused to innocent members.

In the event of false citizenship claims, THA will give the family member the opportunity to elect not to contend their status in lieu of termination of the entire family.

**Drug-related Criminal Activity, Criminal Activity, or Alcohol Abuse:**

Drug-related criminal activity means:

The manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute, of a controlled substance (as defined in the Controlled Substance Act);

The use or possession (other than with intent to manufacture, sell, or distribute) of a controlled substance.

Drug-related criminal activity does not include the prior use or possession of a controlled substance if the family member had an addiction to the substance and has recovered or is recovering from the addiction and does not currently use or possess the substance.

See Mandatory Denial/Termination pg: 15-2

Criminal activity includes:

Offenses that threaten health, safety, or right to peaceful enjoyment of the premises. Such crimes are: (1) felonies; (2) crimes of violence; (3) crimes against property; (4) crimes that impose a financial cost; and (5) crimes that involve disturbing the peace, drug-related activities, and/or alcohol abuse, and the activity is being engaged in by any Family member.

Crimes of violence include any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any Family member.

Applicants may be denied assistance if they have been:

Convicted or evicted from a unit due to drug-related or violent criminal activity within the last three (3) years prior to the date of application.

Participants may be terminated who have been arrested, convicted or evicted from a unit due to drug-related and/or criminal activity and/or alcohol abuse since the previous criminal background screening conducted by THA.

If the family violates the lease for drug-related and/or criminal activity and/or alcohol abuse, the HA will terminate assistance.

In appropriate cases, THA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, THA may consider individual circumstances with the advice of Juvenile Bureau Staff or representative and/or Oklahoma's Office of Juvenile Affairs officials.

#### Required Evidence

The greater weight of the evidence required in a civil suit for the trier of fact to decide in favor of one side or the other. The preponderance is based on the more convincing evidence one clearly knowledge witness may provide a preponderance of evidence sufficient to meet this burden.

Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence.

THA may pursue fact-finding efforts as needed to obtain credible evidence.

#### Notice of Termination of Assistance

In any case where THA decides to terminate assistance to the family, THA must give the family written notice which states:

The reason(s) for the proposed termination

The effective date of the proposed termination

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance

The date by which a request for an informal hearing must be received by THA

The family's opportunity to waive a hearing if applicable

THA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

### **PROCEDURES FOR NON-CITIZENS**

#### Termination due to Ineligible Immigrant Status

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

#### Temporary Deferral of Termination of Assistance

Ineligible families who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

Temporary deferral of termination of assistance is also available to mixed families who were participants on June 19, 1995, who elect not to accept prorated assistance, and are not eligible for Continued Assistance. (See Chapter 14, "Contract Terminations.") THA must allow the mixed family time to find housing for ineligible members or for the entire family by deferring the termination.

Mixed families who choose temporary deferral of termination of assistance may change to prorated assistance at the end of any deferral period, if they have made a good-faith effort to locate housing.

#### Criteria for Approving Temporary Deferral of Termination of Assistance

THA will grant temporary deferral so long as the family makes reasonable efforts to find affordable housing and such reasonable efforts can be documented by the family.

Affordable housing is defined as housing that is standard, based on HQS, of appropriate size, based on HQS, and for which the rent plus utilities is no more than 25% greater than THA calculated Total Tenant Payment.

To determine whether a family is eligible for temporary deferral of termination of assistance, or for a renewal of temporary deferral of termination of assistance, THA will:

Calculate Total Tenant Payment plus 25% for the family, and compare this amount to the data in its rent reasonableness survey for the unit size. If THA's data indicates that units are not available at the affordable rent, the deferral may be renewed.

Require a search record to document the family's efforts to locate housing before granting or extending temporary deferral of termination of assistance.

### Length of Deferral

The initial temporary deferral is granted for an interval not to exceed six months. Additional deferrals can be made up to a maximum of 18 months. A notice is sent to the family at the beginning of each deferral period reminding them of their ineligibility for full assistance and their responsibility to seek other housing.

The family will be notified in writing sixty days before the end of the 18 months maximum deferral period that there cannot be another deferral, and will be offered the option of prorated assistance if they are a mixed family and have made a good-faith effort to locate affordable housing.

### False or Incomplete Information

When THA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, THA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. THA will then verify eligible status, deny, terminate, or prorate as applicable.

THA will deny or terminate assistance based on the submission of false information or misrepresentations.

### Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with THA either after the INS appeal or in lieu of the INS appeal.

After THA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

## **\$0 ASSISTANCE PARTICIPANTS**

### **Old Contracts**

For contracts which were effective prior to 10/2/95, the HA is liable for unpaid rent and damages if the family vacates during the allowable 12 months after the last HAP payment. The HA must perform all of the functions normally required, such as reexaminations and inspections. The participant will be notified of the right to remain on the program at \$0 assistance for 12 months. If the family is still in the unit after 12 months, the assistance will be terminated.

### **New Contracts**

For contracts effective under the Combined Rule effective 10/2/95, the HA has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days

after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If within the 180 day timeframe an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, THA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

### **OPTION NOT TO TERMINATE FOR MISREPRESENTATION**

If the family has misrepresented any facts that caused THA to overpay assistance, THA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses THA in full.

However, if the family signed documents in which facts relating to family composition or income were omitted, or if the omissions were reported to THA by an outside source, the HA will terminate the family's assistance. The family will then be prohibited from receiving Section 8 assistance for a period of five (5) to ten (10) years as determined by the Vice President of Rental Assistance or Senior Manager.

### **MISREPRESENTATION IN COLLUSION WITH OWNER**

If the family is willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, THA will deny or terminate assistance.

In making this determination, THA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

### **MISSED APPOINTMENTS AND DEADLINES**

It is a Family Obligation to supply information, documentation, and certification as needed for THA to fulfill its responsibilities. THA schedules appointments and sets deadlines in order to obtain the required information. The Family Obligations also require that the family allow THA to inspect the unit and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying THA may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow THA to inspect the unit.



Appointments will be scheduled, and time requirements will be imposed for the following events and circumstances:

1. Eligibility for Admissions
2. Verification Procedures
3. HCV Issuance and Briefings
4. Housing Quality Standards and Inspections
5. Recertifications
6. Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- \* Medical emergency
- \* Incarceration
- \* Family emergency
- \* Work or school related functions

## Chapter 16

### OWNER DISAPPROVAL AND RESTRICTION

#### **INTRODUCTION**

It is the policy of the HA to recruit owners to participate in the program, and to provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the HA. The regulations define when the HA must disallow an owner participation in the program, and they provide the HA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

#### **A. DISAPPROVAL OF OWNER**

The owner does not have a right to participate in the program. For purposes of this section, “owner” includes a principal or other interested party.

THA will disapprove the owner for the following reasons:

HUD or other directly related agency has informed THA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed THA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

HUD has informed THA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

THA may disapprove the owner for the following:

THA may refuse to enter into HAP agreement with owners who have history of refusing to terminate tenancy of families:

- (a) Who threaten health or safety of other residents, managers, THA employees or the owner.
- (b) Disturb peaceful enjoyment of unit of others residing in immediate vicinity.
- (c) The owner has engaged in drug trafficking related or violent criminal activity.

THA will disapprove an owner when any combination of three (3) of the following have occurred:

The owner has a history or practice of renting units that fail to meet State or local housing codes. (The owner renting units that fail to meet state or local housing codes on three separate occasions will constitute a “history” or “practice”.)

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has violated obligations under a housing assistance payments contract. 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 will have demonstrated a history or practice of non-compliance with the HQS if, within any 12-month period (1) THA terminates three different HAP contracts due to the owner’s failure to maintain the assisted unit in accordance with HQS; or (2) the assistance payments on any five units of the owners are abated due to the owner not repairing HQS deficiencies within the time allotted by THA.)

## **B. OWNER RESTRICTIONS AND PENALTIES**

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, THA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. THA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the THA will review all relevant factors pertaining to the case and will consider such factors as the owner’s record of compliance and the number of violations.

The THA guidelines for restrictions are contained in the table below:

<b>DISAPPROVAL OF OWNERS/PARTICIPATION RESTRICTIONS</b>	
<b>BREACH</b>	<b>Penalty</b>
HUD notification of owner debarment/suspension	Termination - Participation denied indefinitely
HUD notification of violation of fair housing/federal equal opportunity	Termination - Participation denied indefinitely
Violation of contract obligations*	Termination - Participation denied for three (3) years
Owner fraud, bribery or other corrupt act in federal housing program	Termination - Participation denied five (5) to ten (10) yrs
Owner engaged in drug trafficking related or violent criminal activity.	Termination - Participation denied for five (5) years
History of noncompliance with HQS*	Termination - Participation denied for three (3) years
History of renting units below code*	Termination - Participation denied for three (3) years
State/local real estate taxes, fines or assessments*	Termination - Participation denied for three (3) years
Threaten Safety or health of other residents. Managers HA employees or the owner	Termination – Participation denied for three (3) years
Disturb peaceful enjoyment of unit of other residents in immediate vicinity.	Termination – Participation denied for three (3) years

The termination penalty refers to termination of all existing contracts in effect between THA and the owner.

\*In each of the noted breach categories above termination of all existing contracts in effect between the owner and THA will occur when a total of three breaches have been determined to have occurred. An individual breach will result in the violated contract only being terminated.

\*After each instance of a breach in one of the noted breach categories, the owner will be sent a warning letter reminding them of the repercussions associated with multiple breaches of the HAP contract. The third breach will result in THA terminating all existing HAP contracts with the owner and denying the owner participation in the programs for a three-year period.

### **C. OTHER**

THA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay THA or the tenant, as applicable. The owner will not be considered for participation in the programs until all amounts owed THA are paid in full even if the ten (10) year restriction on participation has elapsed.

The amount of time owners is barred from participation for fraud, bribery, or other corrupt acts will vary based upon the severity of the offense, owner history of compliance with program requirements, and the total amount of subsidy overpaid. The length of time the owner will be restricted will be established (or modified) by the Vice President of Rental Assistance.

Owner fraud includes, but is not limited to: (1) charging substantially less (15% or more) for similar unassisted units; (2) residing with the assisted tenant family; or (3) knowingly receiving housing assistance payments for a vacant unit.

Owner bribery includes, but is not limited to: (1) offering THA personnel money or other enticements for preferential treatment; (2) offering the assisted family money or other enticements to miss scheduled HQS inspections or reexam appointments; (3) offering THA personnel money or other enticements to ignore or pass HQS violations; or (4) offering THA personnel money or other enticements to act contrary to HUD regulations or THA policies and procedures.

## **Chapter 17**

### **OWNER OR FAMILY DEBTS TO THE HA**

#### **INTRODUCTION**

This Chapter describes the HA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to THA, the housing authority will make every effort to collect it. THA will use a variety of collection tools to recover debts including, but not limited to:

- \* Requests for lump sum payments
- \* Civil suits
- \* Repayment agreements
- \* Abatements
- \* Reductions
- \* Collection agencies
- \* Credit bureaus
- \* Income tax set-off programs
- \* Wage garnishments

Applicants that owe THA money from previous housing must pay the debt in full before their name will be added to the waiting list for the Section 8 Housing Choice Voucher Program.

#### **A. REPAYMENT AGREEMENT FOR FAMILIES**

The use of repayment agreements for HAs is optional. A Repayment Agreement as used in this Plan is a document entered into between THA and a person who owes a debt to the THA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to THA upon default of the agreement.

## **Late Payments**

A payment will be considered to be in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

When one payments of the family's repayment agreement is in arrears, THA will consider the repayment agreement to be in default. When a repayment agreement is in default, THA will:

- \* Require the family to pay the balance in full; or
- \* Terminate the housing assistance

If the family requests a move to another unit and has a repayment agreement in place for the payment of an owner claim or other amounts owed, and the repayment agreement is not in arrears the family will be permitted to move provided they are otherwise eligible to move.

If the family requests a move to another unit and is in default on a repayment agreement for the payment of an owner claim or other amounts owed, the family will be required to pay the balance in full plus meet all other eligibility criteria for a move in order to be issued a HCV to move.

If the family has defaulted on a repayment agreement the balance of the agreement is due in full. THA will not renegotiate a repayment agreement on a defaulted balance.

## **Guidelines for Repayment Agreements**

Repayment Agreements will be executed between THA and the participant head of household and spouse or other adult member, or, in the case of an applicant owing THA from previous housing, between THA and any adult family member who resided in the household and benefited from the previous assistance. If the family refuses to sign a repayment agreement their assistance will be terminated.

The maximum amount of the repayment agreement is to be determined by a Vice President of Rental Assistance or Senior Manager, not to exceed half the balance of the debt owed; unless as a reasonable accommodation.

Monthly payments may be temporarily decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Vice President of Rental Assistance or Senior Manager. A written agreement will be drawn up stating the length of time the decreased payments will be in effect.

No move will be approved unless the participant family has paid their debt in full or a current repayment agreement is in effect for the monies owed.

Additional Monies Owed: If the family has a Repayment Agreement in place and incurs an additional debt to THA, the housing authority will not enter into another Repayment Agreement.

## **B. DEBTS OWED FOR CLAIMS**

If a family owes money to THA for claims paid to an owner THA will enter into a Repayment Agreement; for continued assistance if the family was selected for the HCV program prior to the claim being processed by THA.

## **C. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION**

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

### **Family Error/Late Reporting**

Families who owe money to THA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Section of this Chapter.

### **Program Fraud**

- A) Families who owe money to THA due to program fraud will be required to repay it in accordance with the repayment procedures for program fraud, below.
- B) If a family owes an amount to THA as a result of program fraud, the case may be referred to Inspector General. Where appropriate, THA will refer the case for criminal prosecution. All cases prepared for prosecution will be referred to the Vice President of Rental Assistance for review and submittal.
- C) Any recalculation in the amount owed the THA due to fraud must be approved by the Vice President of Rental Assistance. This applies to both increases and decreases in the amount owed.



#### **D. OWNER DEBTS TO THA**

If THA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, THA may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, THA will:

1. Require the owner to pay the amount in full within 14 days; or
2. Enter into a repayment agreement with the owner for the amount owed; or
3. Pursue collections through the local court system; or
4. Restrict the owner from future participation.

#### **E. WRITING OFF DEBTS**

Debts may be written off if:

The debtor's whereabouts are unknown, the debt is more than five years old, and the amount owed is not due to fraud.

The debtor is deceased.

## **Chapter 18**

### **COMPLAINTS AND APPEALS**

#### **INTRODUCTION**

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the HA. This Chapter describes the policies, procedures and standards to be used when families disagree with an HA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the HA to ensure that all families have the benefit of all protections due to them under the law.

#### **COMPLAINTS TO THE HA**

THA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. THA prefers but does not require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

#### **Categories of Complaints**

1. Complaints from families: If a family disagrees with an action or inaction of THA or owner.

A family's complaint will be referred to the Housing Coordinator assigned to the family's case. However, if the complaint is directed at the Housing Coordinator assigned to the family's case, the complaint will be referred to the Housing Coordinators immediate supervisor.

2. Complaints from Owners: If an owner disagrees with an action or inaction of THA or a family.

An owner's complaint relating to a specific family will be referred to the Housing Coordinator assigned to the family's case. However, if the complaint is directed at the Housing Coordinator assigned to the family's case, the complaint will be referred to the Housing Coordinators immediate supervisor.

3. Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules.

Any staff member who detects an owner or family either violating or not complying with program rules will be responsible for gathering as much information as possible to support their conclusion. The Housing Coordinator and their immediate supervisor will make a determination, based on the information gathered, as to a family's eligibility for continued assistance under the programs. The Vice President of Rental Assistance or Senior Manager Rental Assistance will determine an owner's eligibility for continued participation in the programs.

4. Complaints from the general public: Complaints or referrals from persons in the community in regard to THA, a family or an owner.

Complaints from the general public will be referred to the Vice President of Rental Assistance or Senior Manager Rental Assistance.

### **PREFERENCE DENIALS**

When THA denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting THA staff to discuss the reasons for the denial and to dispute the THA's decision.

The person who conducts the hearing will be a 3<sup>rd</sup> party non-employee of THA.

### **INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

When THA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible

The procedure for requesting a review if the applicant does not agree with the decision

The time limit for requesting a review

The HA must provide applicants with the opportunity for an Informal Review of decisions denying the following:

Listing on the THA's waiting list

Issuance of a HCV

Participation in the program

Informal Reviews are not required for established policies and procedures and THA determinations such as:

1. Discretionary administrative determinations by the THA
2. General policy issues or class grievances
3. A determination of the family unit size under the THA subsidy standards
4. Refusal to extend or suspend a HCV
5. Disapproval of lease
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition

#### Procedure for Review

A request for an Informal Review must be received, in writing, by the close of the business day, no later than five (5) working days from the date of the THA's notification of denial of assistance. The informal review will be scheduled within ten (10) days from the date the request is received.

The Informal Review will be conducted by a 3<sup>rd</sup> party non-employee of THA.

A Notice of the Review finding will be provided in writing to the applicant within seven (7) days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

#### **INFORMAL HEARING PROCEDURES**

THA will provide a copy of the hearing procedures in the family briefing packet.

When THA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. THA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the THA;
- The date the proposed action or decision will take place;
- The family's right to hearing if the family disputes the action or decision;
- The procedures for requesting a hearing, if the family disputes, the action or decision;
- The time limit for requesting the hearing (five business days from the date of the notice).

THA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following THA determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment
2. Appropriate utility allowance used from schedule
3. Family unit size determination under THA subsidy standards
4. Determination to terminate assistance for any reason
5. Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account
6. Determination to pay an owner claim for damages, unpaid rent or vacancy loss
7. Determination that the family owes THA for overpaid assistance due to family error, late reporting, or program fraud

THA must always provide the opportunity for an informal hearing before termination of assistance.

Informal Hearings are not required for established policies and procedures and THA determinations such as:

1. Discretionary administrative determinations by the THA.
2. General policy issues or class grievances.
3. Establishment of the THA schedule of utility allowances for families in the program.

4. THA determination not to approve an extension or suspension of a HCV term.
5. THA determination not to approve a unit or lease.
6. THA determination that an assisted unit is not in compliance with HQS.
7. THA determination that the unit is not in accordance with HQS because of the family size.
8. THA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

#### Notification of Hearing

It is THA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, THA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When THA receives a request for an informal hearing, a hearing shall be scheduled within ten (10) days. The notification of hearing will contain:

1. The date and time of the hearing.
2. The location where the hearing will be held.
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense.
4. The right to view any documents or evidence in the possession of the HA upon which the HA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing.

#### THA's Hearing Procedures

After a hearing date is set, the family may request to reschedule if good cause exists. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the action of THA will be in effect. However, if the family contacts THA within two (2) business days THA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

Present written or oral objections to THA's determination;

Examine the documents in the file which are the basis for THA's action, and all documents submitted to the Hearing Officer;

Copy any relevant documents at their expense;

Present any information or witnesses pertinent to the issue of the hearing;

Request that THA staff be available or present at the hearing to answer questions pertinent to the case; and

Be represented by legal counsel, advocate, or other designated representative at their own expense.

In addition to other rights contained in this Chapter, THA has a right to:

Present evidence and any information pertinent to the issue of the hearing;

Be notified if the family intends to be represented by legal counsel, advocate, or another party;

Examine and copy any documents to be used by the family prior to the hearing;

Have its attorney present; and have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by THA who is neither the person who made or approved the decision, nor a subordinate of that person. THA may appoint hearing officers who are employees of the THA's Section 8 department.

The hearing shall concern only the issues for which the family has received the opportunity for the hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

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 THA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of THA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to THA and the family within seven (7) days and shall include:

A clear summary of the decision and reasons for the decision;

If the decision involves money owed, the amount owed; and

The date the decision goes into effect.

THA is not bound by hearing decisions:

Which concern matters in which THA is not required to provide an opportunity for a hearing;

Which conflict with or contradict HUD regulations or requirements;

Which conflict with or contradict Federal, State or local laws; or

Which exceed the authority of the person conducting the hearing.

THA shall send a letter to the participant if it determines THA is not bound by the Hearing Officer's determination within seven (7) days. The letter shall include THA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while THA hearing is pending but assistance to an applicant may be delayed pending THA hearing.

### **INS Determination of Ineligibility**



If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, THA notifies the applicant or participant within ten (10) days of their right to appeal to the INS within thirty (30) days or to request an informal hearing with THA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give THA a copy of the appeal and proof of mailing or THA may proceed to deny or terminate. The time period to request an appeal may be extended by THA for good cause.

The request for THA hearing must be made within fourteen (14) days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen (14) days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in section D of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the THA will:

- Deny the applicant family.

- Defer termination if the family is a participant and qualifies for deferral.

- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, THA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.

- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

## **MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES**

When applicants are denied placement on the waiting list, or THA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review/hearing process.

## **REVIEW OF HEARING OFFICER'S DECISION**

Any request for a review of the Hearing Officer's decision made by an applicant or participant must be submitted, in writing, to the Vice President of Rental Assistance within five (5) business days of the date of the notice of hearing findings. The request for review must state: (1) which HUD regulation or requirement the Hearing Officer's decision conflicts with or contradicts; or (2) which Federal, State or local law the Hearing Officer's decision conflicts with or contradicts; or (3) how the hearing decision exceeds the authority of the person conducting the hearing. Any post hearing review of the Hearing Officer's decision will be conducted by the Vice President of Rental Assistance.

## **CHAPTER 19**

### **HOMEOWNERSHIP OPTION**

#### **INTRODUCTION**

Section 8(y) homeownership option was added as a new “special housing type” under subpart M of HUD’s regulation at 24 CFR 982. The part 982 regulations, which were amended by a final rule, published on October 21, 1999, implemented the statutory merger of the Section 8 tenant –based Certificate and Voucher programs into the Housing Choice Voucher (HCV) program.

The homeownership option offers a new opportunity for families that receive Section 8 tenant-based rental assistance. This housing type allows first-time homeowners to use the voucher funds to meet monthly homeowner expenses rather than to pay rent.

This chapter will explain HUD’s regulations and THA’s policy on providing ten (10) Section 8 Housing Choice Voucher (HCV) clients the opportunity to participate in the homeownership option.

#### **ELIGIBILITY FACTORS**

To be eligible for participation, an applicant must meet HUD’s criteria, as well as any permissible additional criteria established by the HA.

The HUD eligibility criteria are:

1. Family must be a first-time homeowner
2. Family must meet a minimum income requirement
3. Family must meet the employment requirement

For the HA’s additional criteria for eligibility see Section D, Other Requirements.

#### **A. First-Time Homeowner Requirement**

The family must be any of the following:

##### **First-time Homeowner**

- A family in which no member has had a present homeownership interest in a residence in the last three years.

- Exception: A single parent or displaced homemaker who, while married, owned a home with a spouse or resided in a home owned by the spouse.
- Cooperative member
- A family that includes a person with disabilities

## **B. Minimum Income Requirement**

At the commencement of homeownership assistance, gross annual income of the adult family members who will own the home must equal the federal minimum wage multiplied by 2000 hours.

Except for elderly or disabled families, welfare assistance may not be counted in determining whether the family meets the minimum income requirement.

## **C. Employment Requirement**

One or more adult family members who will own the home must be:

- Currently employed on a full-time basis (not less than an average of thirty (30) hours per week); and
- Continuously employed full –time for the past year.
- The employment requirement does not apply to elderly or disabled families.
- The HA shall grant an exemption to the employment requirement if needed as a reasonable accommodation for a family, other than an elderly or disabled family, which includes a person with disabilities.

## **D. Other Requirements**

1. The family must have participated in the HCV program for one (1) year – twelve (12) full months from the date of admission to the program.
2. The family member must not have defaulted on a mortgage under the home-ownership option.
3. Family members who will own the home must have been continuously employed full-time for the past year. The family member will be allowed a break in full-time employment of two (2) weeks to switch employers, with minimum of 3 full-time employers in a twelve (12) month period.
4. Family must have satisfied any outstanding debt owed the HA or another HA as a result of prior participation in any federal housing program.

5. Persons evicted from Public Housing, Indian Housing, Section 23, or any other Section 8 programs for non-payment of rent are ineligible for participation for a period of 3 years from the eviction.
6. Families must have a good rental reference, in regards to rental payments for a period of twelve (12) months.
7. Families that have filed bankruptcies must have proof that the bankruptcy has been discharged for at least two (2) years.

## **LOCATING A HOME**

### **Pre-Assistance Homeownership Counseling**

Eligible families must attend and satisfactorily complete a homeownership counseling program required by the HA. THA will partner with Housing Partners of Tulsa (HPT), so that they can conduct the housing counseling portion of the Section 8 Homeownership program. The Memorandum of Agreement between the two agencies will be kept on file. HPT offers a HUD certified Housing Counseling Program.

### **Time To find a Home**

Families will be given an initial one hundred twenty (120) days to locate and have executed a contract to purchase a home. The family will be required to report their progress every thirty (30) days to the Housing Counselor in writing.

Families unable to purchase a home within the allowable time frame will be required to re-apply for the Section 8 HCV program for further rental assistance.

An additional thirty (30) days will be granted after the initial 120-day term only in cases of:

1. A member of the family is disabled, and the family evidences need of an extension because of the disability, THA will grant the extension as a reasonable accommodation.
2. Medical Emergencies: the applicant suffered a medical emergency as documented by a physician's statement or hospital records. Medical emergency is defined as an illness or injury of an immediate family member (self, spouse, child or parent) which results in hospitalization or home bound care for a period of ten (10) days or more; or a death of an immediate family member.
3. Excessive delays caused by THA or HPT staff, is defined as a delay of more than seven (7)-calendar days processing of paper work.

### **Eligible Units**

The HA will approve any of the following units for the homeownership option:

1. Units under construction that will be ready for occupancy within the family's time to find a home.
2. Already existing units – one-unit properties or single dwelling units in cooperatives or condominiums.

The HA will not approve a unit if the HA has been informed (by HUD or otherwise) that the seller is debarred, suspended or subject to a limited denial of participation under CFR 24.

### **Home Inspections**

THA staff will perform the required Housing Quality Standards (HQS) inspections as required by HUD regulations and THA policy and procedures as described in Chapter 10, Housing Quality Standards and Inspections, of this administration plan.

The HA will require the second HUD required inspection of the unit be conducted by a licensed independent inspector. The inspector will conduct an electrical, mechanical and plumbing inspection (EMP). The purpose of this inspection will be to assess the adequacy and life span of major systems, appliances and other structural components, and to identify potential problems with the unit such as, the need to replace an aging heating system.

The HA will also require a Lead Based Paint Inspection of any unit built prior to 1978, if the client will be using HOME funds for down payment assistance.

### **FINANCING**

#### **Contract for Sale**

The family must enter into a contract of sale for the unit and must provide a copy of the contract to the HA. The contract must:

1. Specify the price and term of the sale.
2. Provide for the pre-purchase inspections arranged by the purchaser.
3. Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory.
4. Provide that the purchaser is not obligated to pay for any necessary repairs.
5. Certify that the seller is not debarred, suspended, or subject to a limited denial of participation under 24 CFR.

### **Down Payment/Equity Requirement**

The family will be responsible for securing financing. The voucher funds will not be allowed as part of the financing cost such as down payment or closing cost.

Families are required to provide a minimum down payment of at least three (3) percent of the purchase price and at least one (1) percent of the purchase price must come from the family's personal resources. Family personal resources may include withdrawals from FSS escrow accounts, IDEA and IDA accounts.

### **Other Requirements**

The HA will not approve any of the following as lenders or types of financing:

- Seller financing
- Balloon payment mortgages
- Variable rate loans.

The HA must approve and will restrict all other debts secured by the home.

The HA will ensure that the family is able to afford the proposed financial transaction of the purchase of the home, as determined by the lender.

### **HOMEOWNERSHIP ASSISTANCE PAYMENTS**

THA will make the monthly homeownership payments directly to the lender, and at no time will the HA make a Homeownership Assistance payment to the client. The payments will be made on or near the first of every month.

The HCV subsidy standard as described in Chapter 5, Subsidy Standards and the HCV payment standard as described in Chapter 11, Owner Rents, Rent Reasonableness and Payment Standards of this administrative plan, will be used for the homeownership option.

The monthly homeownership assistance payment is the lesser of:

- The payment standard minus the family's total tenant payment (TTP)
- The family's monthly homeownership expenses minus the family's TTP.

The family's TTP is the greater of:

- 30 percent of adjusted monthly income;
- 10 percent of the gross monthly income;
- THA's minimum rent of \$50.

### **Homeownership Expenses**

THA will allow the following list of expenses, to be used in the calculation of the family's homeownership assistance payment:

- Principal and interest on the mortgage debt
- Home insurance and mortgage Insurance
- THA utility allowances
- Principal on a mortgage debt for major repairs
- 50% of Cooperative or Condominium operating charges or maintenance fees

### **CONTINUED ASSISTANCE**

#### **Moves**

The family will not be allowed to move with continued homeownership assistance, as long as any family member owns title or other interest in a prior home.

To move with continued homeownership assistance, the family must meet all initial eligibility requirements except:

- First-time homeowner
- Requirement for pre-assistance counseling

#### **Portability**

A family determined eligible for homeownership assistance may purchase a home outside the initial HA's jurisdiction, or may move outside the initial HA's jurisdiction with continued homeownership, if:

- The receiving HA is administering a HCV homeownership program, and
- The receiving HA is accepting new homeownership families.

#### **Time Limits**

The maximum term of homeownership assistance is fifteen (15) years, if the mortgage term is twenty (20) years or longer, and ten (10) years in all other cases.

There is no time limit for homeownership to elderly or disabled families. To qualify under this condition the family must:

- qualify as elderly at the start of the homeownership assistance
- qualify as disabled at any time during the homeownership assistance



## **DENIAL OR TERMINATION**

Grounds for denial and termination under the HCV program apply to the homeownership families.

The HA will deny or terminate assistance if the family refuses to execute a written statement in which the family agrees to comply with all family obligations for homeownership assistance.

The HA will also terminate homeownership for the following reasons:

### **A. Violations of the Family's Obligations under the homeownership option**

#### **Family Obligations**

The Family must:

1. Use and occupy the unit as the family's only residence.
2. Comply with the terms of the mortgage.
3. Report changes in family composition.
4. Not sublet or lease the home.
5. Comply with the family obligations under the HCV program.
6. Supply information concerning any changes to financing of the home or payoff of debt, at the time it happens.
7. Supply information at the time of sale or transfer of any interest in the home.
8. Supply information requested about homeownership expenses.
9. Notify the HA before moving out of the home.
10. Notify the HA of any mortgage default.
11. Not acquire ownership interest in a second residence.
12. Must attend post-purchase foreclosure counseling, as required

### **B. Mortgage Default**

If the family defaults on a mortgage under the homeownership option their homeownership assistance will be terminated and they will not be offered continued assistance under the HCV rental assistance program.

### **Automatic Termination of Homeownership Assistance**

The homeownership assistance is terminated automatically one hundred eighty (180) days after the last homeownership payment is made on behalf of the family. During the 180-day period, if the family is still in the unit and there is a decrease in their TTP, the HA will resume assistance payments.

## **CHAPTER 20**

### **PROJECT-BASED VOUCHERS**

#### **INTRODUCTION**

This chapter describes HUD regulations and THA policies related to the project-based voucher (PBV) program. Project Based Vouchers would be a component to THA's Housing Choice Voucher program.

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

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. 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 THA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how THA 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 payment owners may receive under this program.

## **PART I: GENERAL REQUIREMENTS**

### **OVERVIEW [24 CFR 983.5]**

The Project Based Vouchers (PBV) program allows PHA's that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance. PHA's may only operate a PBV program if doing so is consistent with the PHA's Annual Plan and the goal of deconcentrating poverty and expanding housing and economic opportunities.

#### **THA Policy**

THA may operate a project-based voucher program that utilizes up to 20% of its tenant based vouchers.

THA has decided to authorize the maximum amount of project-base voucher authorized by HUD. (no more than 20 percent of its voucher program budget authority). THA will continue to monitor HUD notices making available PBV for HUD-VASH vouchers or other PBV special purpose vouchers or for a project that would provide affordable housing for low-income or homeless veterans.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. If PBV units are already selected for project-based assistance either under an agreement or enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC. [24CFR 983.6]

### **TENANT BASED VS. PROJECT- BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

Many of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA 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.

### **THA Policy**

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

## **RELOCATION REQUIREMENTS [24 CFR983.7]**

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)[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. PHA's 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 23 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 the PHA to ensure the owner complies with these requirements.

## **EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA 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: PBV OWNER PROPOSALS**

### **OVERVIEW**

The PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per project, and meets the site selection standards. The PHA may not commit PBV's until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51.

## **OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]**

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA 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.

The PHA may select proposal 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 program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, CDBG, and units for which competitively awarded LIHTC's have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

## **SOLICITATION AND SELECTION OF PBV PROPOSALS [24 CFR 983.51(c)]**

PHA 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 the PHA. 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 the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

### **THA Policy**

### **THA Request for Proposals for Rehabilitated and Newly Constructed Units**

THA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the follow newspapers and trade journals.

### **Tulsa World**

THA may also advertise the RFPs in other trade journals and industry sources, including electronic advertising, as THA determines is appropriate for the project.

In addition, THA will post the RFP and proposal submission and rating and ranking procedures on its electronic website.

THA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number of project based units that THA estimates will be available. The due for proposals will be specified in the RFP. In order for the proposal to be considered, the owner must submit the proposal to THA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

THA 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 THA's goal of deconcentrating poverty, expanding housing and economic opportunities

Projects which will provide affordable housing to workforce individuals and families

Projects which will provide affordable housing and support services to low income families and individuals, individuals and families experiencing homelessness or veterans experiencing homelessness

#### **THA Requests for Proposals for Existing Housing Units**

THA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

#### **Tulsa World**

THA may also advertise the RFP's in other trade journals and industry sources, including electronic advertising, as THA determines is appropriate for the project.

In addition, THA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic website.

THA may periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number of project based units available. The due date for proposals will be specified in the RFP. Owner proposals will be accepted on a first come first served basis and will be evaluated using the following criteria:

Experience as a developer, manager or operator of multifamily projects for those projects seeking to provide housing targeting workforce families and individuals

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 THA's goal of deconcentrating poverty and expanding housing and economic opportunities

Extent to which units are occupied by families that are eligible to participate in the PBV program

Projects which will provide affordable housing to workforce families and individuals

Projects which will provide affordable housing and support services to low income families and individuals, individuals and families experiencing homelessness, or veterans experiencing homelessness

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

THA may select, without competition, a proposal for housing assisted under a Federal, State or local government housing assistance, community development, or supportive services program that required competitive selection of proposals (e.g., HOME, CDBG and units competitively awarded low income housing tax credits (LIHTCs)), where the proposal has been selected in accordance with such program's competitive selection requirements within 3 years of the PBV proposal selection date, and the earlier competitively selected housing assistance proposal did not involve any consideration that the project would receive PBV assistance.

THA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

**Tulsa World**

THA may also advertise the RFP's in other trade journals and industry sources, including electronic advertising, as THA determines is appropriate for the project.

In addition to, or in place of advertising, THA may, on an ongoing basis, 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. Any awards of PBV units selected under this method will be published in the Tulsa World within 30 days of the award.



Proposals will be reviewed on a first come first serve basis. THA will evaluate each proposal on its merits using the following factors:

Experience as a developer, manager, or operator of multifamily projects for those projects seeking to provide housing targeting workforce families and individuals

Owner experience and capability to build or rehabilitate housing as identified in the RFP

Extent to which the project furthers THA's goal of deconcentrating poverty and expanding housing and economic opportunities

Projects that will provide affordable housing to workforce families and individuals

Projects which will provide affordable housing and support services to low income families and individuals, individuals and families experiencing homelessness and veterans experiencing homelessness

**PHA Owned Units [24 CFR 983.51 (e) 983.59, and Notice PIH 2015-05]**

A PHA owned 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 the PHA owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD approved independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. In addition, Housing Quality Standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD approved public or private independent entity.

**THA Policy**

THA may submit a proposal for project based housing that is owned or controlled by THA or its subsidiary. If the proposal for THA owned or controlled housing is selected, the HUD field office or a HUD approved independent entity will review the selection process to determine if the THA owned or controlled units were appropriately selected based on the selection procedures specified in THA's

administrative plan. THA will make documentation available for public inspection regarding the basis of selection of a PBV proposal.

For THA owned or controlled housing, the initial contract rent will be approved by an independent entity. In addition, housing quality standards inspections will be conducted by an independent entity.

The PHA may only compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipt to compensate the independent entity for its services. The PHA and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

#### **PHA NOTICE of OWNER SELECTION [24 CFR 983.51 (d)]**

The PHA 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 or general circulation and other means designed and actually operated to provide broad public notice.

#### **THA Policy**

Within 15 business days of THA making the selection, THA will notify the selected owner in writing of the owner's selection for the PBV program. THA 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.

In addition, THA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals THA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. THA will also post the notice of the owner selection on its electronic web site.

THA will make available to any interested party its rating and ranking sheets and documents that identify THA's 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. THA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

THA will make these documents available for review at THA during normal business hours. The cost for reproduction of allowable documents will be \$.10 per page.

#### **HOUSING TYPE [24 CFR 983.52]**

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to

the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if at the time of notice of PHA selection; the units substantially comply with housing quality standards (HQS). Units for which new construction or rehabilitation began after the owner's proposal submission, but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

### **PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to:

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

In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. 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. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

### **Subsidized Housing [24 CFR 983.54]**

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit
- A unit subsidized with any other form of Section 8 assistance
- A unit subsidized with any governmental rent subsidy
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing

- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments)
- 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
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements

### **SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]**

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. 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.

### **CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

#### **25 Percent per Project Cap [24 CFR 983.56(b)]**

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter in a HAP 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 during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

#### **Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)]**

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are excepted units in a multifamily project because they are specifically made available for elderly and/or disabled families;
- or families receiving supportive services

PHA's must include in the PHA Administrative Plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have a least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA Administrative Plan must state the form and frequency of such monitoring.

#### **THA Policy**

THA will require non-elderly and non-disabled families living in excepted units to receive supportive services. At least one member of the family must be receiving support services. The types of supportive services that will be offered include, but are not limited to:

**Job readiness/Job training-** Includes preparation and counseling, job development and placement, follow up assistance after placement, completion of FSS "Contract of Family Participation

**Education** – Includes education for the completion of GED, post-secondary education, or computer training classes for children and adults

**Household Training** – Includes homemaking, parenting skills, financial literacy and stability programs

**Self-Sufficiency Services and Resources** – Includes participating in the FSS program and accessing all appropriate services to assist the family to achieve economic independence and self-sufficiency

**Substance Abuse Treatment** – Includes counseling, treatment for substance abuse and participation in ongoing support groups

Excepted units will also include units in single family buildings and those made available for elderly or disabled families

THA will monitor the continued participation in the support services on an annual basis as part of the annual recertification. Families will be required to provide documentation from the service provider showing that a family member was actively receiving services throughout the year and are still receiving services. Families can use verification form provided by THA or original documents from the service provider.

**Promoting Partially-Assisted Projects [24 CFR 983.56(c)]**

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A partially assisted project is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 percent.

**THA Policy**

THA may provide assistance for excepted units as defined in 24 CFR 983.56(b). The per-project cap will be defined in the PBV proposals (RFP), the agreement to enter into HAP contract, and the HAP contract.

**SITE SELECTION STANDARDS**

**Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA 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 the PHA Plan under 24 CFR 903 and the PHA Administrative Plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitation and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(1).

### **THA Policy**

It is THA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, THA will limit approval to sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, THA will grant exceptions to the 20 percent standard where THA 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-designed Enterprise Zone, Economic Community, 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 in 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.

### **Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a 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 983.57(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 the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be serviced 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;
- 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 neighborhood 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.

#### **ENVIRONMENTAL REVIEW [24 CFR 983.58]**

THA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. 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.). THA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.



In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, 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 the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

### **PART III: DWELLING UNITS**

#### **OVERVIEW**

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

#### **HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, 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 does not apply to the PBV program.

#### **Lead-based paint [24 CFR 983.101[c]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, AND R, apply to the PBV program.

#### **HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

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 CFA part 8. The PHA 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. (CFR 983.102)

## **INSPECTING UNITS**

### **Pre-selection Inspection [24 CFR 983.103(a)]**

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

### **Pre-HAP Contract Inspections [24 CFR 983.103(b)]**

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until fully complies with HQS.

### **Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA 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, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

#### **THA Policy**

THA 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 HQS. Turnover inspections are not counted towards meeting this inspection requirement. If more than 20% of the annual sample fails the annual inspection, THA shall re-inspect 100 percent of the contract units in the building.

### **Other Inspections [24 CFR 983.103(e)]**

The PHA 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. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA 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 PHA supervisory quality control HQS inspections, the THA will include a representative sample of both tenant-based and project-based units.

#### **Inspection PHA-Owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA 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 the PHA-owner.

### **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

#### **OVERVIEW [24 CFR 983.151]**

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.

#### **AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an agreement commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFA 983.152(a)].

#### **Content of the Agreement [24 CFR 983.152(d)]**

At a minimum, the Agreement 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 (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner 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 Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. 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 drawing and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

#### **Execution of the Agreement [24 CFR 983.153]**

The agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

#### **THA Policy**

THA will enter into the Agreement with the owner within 15 business days of receiving both environmental approval and notice that subsidies layering requirement have been met, and before construction or rehabilitation work is started.

#### **CONDUCT OF DEVELOPMENT WORK**

##### **Labor Standards [24 CFR 983.154(b)]**

If an Agreement 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. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

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. The PHA must monitor compliance with labor standards.

**Equal Opportunity [24 CFR 983.154(c)]**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

**Owner Disclosure [24 CFR 983.154(d) and (e)]**

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Service 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 Agreement, the HAP contract, or HUD regulations.

**COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The agreement must also specify the deadline for submission by the owner of the required evidence of completion.

**Evidence of Completion [24 CFR 983.155(b)]**

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and

Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

**THA Policy**

THA 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. THA will specify any additional documentation requirements in the Agreement to enter into the HAP contract.

**PHA Acceptance of Completed Units [24 CFR 983.156]**

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing had been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the

Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

### **OVERVIEW**

The PHA 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. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

### **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;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

#### **Execution of the HAP Contract [24 CFR 983.204]**

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

#### **THA Policy**

For existing housing, the HAP contract will be executed within 15 business days of THA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 15 business days of THA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

#### **Term of HAP Contract [24 CFR 983.205]**

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 15 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year or more than 15 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b) (2)].

#### **THA Policy**

The term of all PBV HAP contracts will be negotiated with the owner, developer or manager on a case-by-case basis.

Projects that will provide affordable housing to workforce families and individuals, if approved, will receive a 15 year term.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 15 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 15 years.

A PHA may provide for multiple extensions; however, in no circumstance may such extensions exceed 15 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b) (2)].

### **THA Policy**

When determining whether or not to extend an expiring PBV contract, THA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

### **Term of HAP Contract for PBV Converted under RAD**

The PBV site that resulted from a RAD conversion shall have an initial HAP contract term of at least 15 years. The initial term may be extended to 20 years upon request of the owner and THA approval.

### **TERMINATION OF THE HAP CONTRACT**

#### ***Termination by PHA [24 CFR 983.205(c)]***

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner of any contract year in accordance with the terms of the HAP contract.



If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

***Termination by Owner [24 CFR 983.205(d)]***

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

**Statutory Notice Requirements: Contract Termination or Expiration  
[24 CFR 983.206]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. 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 may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

**Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA 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 the PHA determines that a contract does not comply with HQS, the PHA 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.

**THA Policy**

THA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies defined in the tenant-based voucher program.

These policies are contained in Chapter 10 of THA's HCV Administrative Plan.

**AMENDMENTS TO THE HAP CONTRACT**

**Substitution of Contract Units [24 CFR 983.207(a)]**

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

**Addition of Contract Units [24 CFR 983.207 (b)]**

At the PHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of the PHA's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

**THA Policy**

THA will consider adding contract units to the HAP contract when THA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

**HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES  
[24 CFR 983.207 (b) 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.

**OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]**

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;

- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, 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; 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 David-Bacon wage requirements.

## **ADDITIONAL HAP REQUIREMENTS**

### **Housing Quality and Design Requirements [24 CFR 983.101 (e) and 983.207 (a)]**

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA 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.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

### **THA Policy**

THA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. THA will specify any special design standards or additional requirements in the request for PBV proposals (RFP), the agreement to enter into HAP contract, and the HAP contract.

### **Vacancy Payments [24 CFR 983.352 (b)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy 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 the PHA

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).

### **THA Policy**

If an assisted family moves out of the unit without notice or is deceased, the owner may keep the HAP payable for the calendar month when the family moves out (move out month). However, the owner may not keep the payment if THA determines that the vacancy is the owner's fault.

THA shall not pay of an overlapping HAP.

THA will decide on case-by-case basis if THA will provide vacancy payments to the owner. The HAP Contract with the owner will contain any such agreements including the amount of the vacancy payment and the period of time for which the owner qualifies for these payments.

If THA provides a vacancy payment as defined in a HAP contract with an owner, the following policies would apply:

When a family vacates its unit, the owner is eligible for a vacancy payment if:

The owner gives THA prompt written notice certifying that the family has vacated the unit and containing 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.

The owner provides any additional information required and requested by THA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payment in the form and manner required by THA and must provide any information or substantiation required by THA to determine the amount of any vacancy payment.

### **Vacancy loss and payment Calculation:**

The vacancy loss begins the later of:

The date the unit is rent ready, per the owner / manager.

The day after the lease end date for the HAP was paid to the owner.

The vacancy payment will not exceed the monthly contract rent.

Any rental payment received by the owner from the tenant (including amounts available from the tenant's security deposit) will be deducted from the vacancy payment.

Vacancy loss extends from the beginning of the first calendar month after the move-out month for a period not exceeding one full month following the move-out month.

Vacancy loss calculation will be based on actual calendar days per month.

Vacancy payments may cover only the period the unit remains vacant and is in rent-ready condition.

## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **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.

### **ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251 (a) and (b)]**

The PHA may select families for the PBV program from those who are participants in the PHA'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.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201 (a) and 24 CFR 983.2 (a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA 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.

**THA Policy**

THA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 2 of THA's HCV Administrative Plan.

**In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA 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 the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

**ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate wait list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

**THA Policy**

THA will establish and manage separate PBV waiting lists for PBV units in particular projects or buildings or sets of PBV units in a project.

**SELECTION FROM THE WAITING LIST [24 CFR 983.251 (c)]**

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

**Income Targeting [24 CFR 983.251(c)(6)]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA 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.

**Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

**Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**

The PHA 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. The PHA must provide an absolute selection preference for eligible in-place families.

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;

Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and

For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include "excepted units" (units specifically made available for elderly or disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261 (b)].

**THA Policy**

THA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units).

THA may offer additional preferences for the PBV program or for particular PBV projects or units, depending on the supportive services offered at those units. When THA has the opportunity to target PBV’s for special needs populations, THA will enter into a Memorandum of Understanding (MOU) to provide supportive housing in collaboration with another local agency which would provide the supportive services for the special needs population. In the MOU, the two organizations will identify the referral criteria and establish policies to ensure eligibility requirements are met.

At the time the project’s waiting list is opened, applicants on the tenant-based waiting list will be given the opportunity to be added to the project’s waiting list. Additionally, referrals would come directly from the collaborating agency to be added to the project waiting list. Families who meet the criteria would be given first preference for the limited preference units.

## **OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251 (e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

### **Disapproval by Landlord [24 CFR 983.251 (e)(2)]**

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

### **Acceptance of Offer [24 CFR 983.252]**

#### ***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA 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, the PHA must provide a briefing packet that explains how the PHA 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, the PHA 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, the PHA must have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

### ***Persons with Limited English Proficiency***

The PHA 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).

## **OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

### **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 the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### **Filing Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

### **THA Policy**

The owner must notify THA in writing (mail, fax, or e-mail) within 2 business days of learning about any vacancy or expected vacancy.

THA will make every reasonable effort to refer families to the owner within 15 business days of receiving such notice from the owner.

**Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA 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.

**THA Policy**

If any contract units have been vacant for 120 days; THA 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. THA will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of THA's notice.

**TENANT SCREENING [24 CFR 983.255]****PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

**THA Policy**

THA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA 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(a)(4)].

**THA Policy**

THA 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. THA 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**

### **OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### **LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

### **Form of Lease [24 CFR 983.256(b)]**

The tenancy 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, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

#### **THA Policy**

THA generally will not review the owner's lease for compliance with state or local law but reserves the right to review an owner lease for compliance with state or local law.

#### **Lease Requirements [24 CFR 983.256(c)]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

#### **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-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 with 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 terminated 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
- The PHA terminates the HAP contract
- The PHA 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 the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA 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 982.10). 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.

#### ***Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c), FR Notice 11/24/08]***

If a family is living in a project-based unit that is exempt from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

#### ***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 by PHA 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. PHA 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 the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

### **THA Policy**

If a participating family receiving zero rental assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify THA 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. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

### **THA Policy**

THA will allow the owner to collect a security deposit amount that is not 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. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

## **MOVES**

### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]**

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standard, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly

notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

**THA Policy**

THA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-sized or accessible unit within 10 business days of THA's determination. THA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA 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 the PHA) 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, the PHA must remove the unit from the HAP contract.

If the PHA 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 the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

**THA Policy**

When THA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 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 30 day time frame, THA will terminate the housing assistance payments at the expiration of this 30-day period.

THA 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.

**Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

### **THA Policy**

PBV participants may be eligible to move when all the following criteria are true:

- The PBV participant family has completed 1 full year of occupancy;
- The participant family has no outstanding debts to the owner and / or THA; and
- The participant family has given advance notice of intent to vacate to the owner and THA in accord with any terms of the lease.

If the family terminates the lease in accordance with these requirements, the PHA 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 voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### **EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]**

The PHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly and/or disabled families; or
- Specifically made available for families receiving supportive services as defined by the PHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception (e.g. a family that does not successfully complete its FSS contract of participation or supportive services requirements, or a family that is no longer elderly or disabled due to a change in family composition where the PHA does not exercise discretion to allow the family to remain in the excepted unit), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.



If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death or the elderly or disabled family member of long-term or permanent hospitalization or nursing care), the elderly or disabled family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

#### **THA Policy**

THA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other case, when THA determines that a family no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception, THA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, THA will terminate the housing assistance payments at the expiration of this 30-day period.

THA 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.

THA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to THA, THA will amend the HAP contract to reduce the total number of units under contract.

### **PART VIII: DETERMINING RENT TO OWNER**

#### **OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or

newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

### **RENT LIMITS [24 CFR 983.301]**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the units bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

### **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.

Different limits apply to 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;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, 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 approved exception payment standard.

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;

- The reasonable rent; or
- The rent requested by the owner.

### ***Definitions***

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax Credit rent* is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

### **Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]**

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA 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 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
- 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 the PHA 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.

### **THA Policy**

THA will elect within the HAP contract not to reduce rents below the initial level, with the exception of 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, THA will use the higher initial rent to owner amount.

### **Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

When determining the initial rent to owner, the PHA 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, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA 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.

Any HUD-approved 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.

Likewise, the PHA 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.

#### **THA Policy**

Upon written request by the owner, THA 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. THA 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, THA 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 THA determines it is necessary due to PHA budgetary constraints.

### **Redetermination of Rent [24 CFR 983.302]**

The PHA must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

#### ***Rent Increase***

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by the PHA. The PHA 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).

### **THA Policy**

An owner's request for a rent increase must be submitted to THA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The PHA 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 HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

### ***Rent Decrease***

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

### ***Notice of Rent Change***

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA 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.

### **THA Policy**

THA 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 PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

### **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 the PHA, except where the PHA 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**

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA 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 the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct this analysis or are involved in determining the housing assistance payment based on the analysis may not have any direct or indirect interest in the property.

### **PHA-Owned Units**

For PHA-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 PHA-owned units to the PHA and to the HUD field office where the project is located.

### **Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted

units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

## **EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

In addition to the rent limits discussed previously, 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.

### **Other Subsidy [24 CFR 983.304]**

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA 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 rents 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 Services;
- 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**

### **HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

During the term of the HAP contract, the PHA 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 the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA 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 the PHA 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.

#### **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 the PHA determines that the vacancy is the owner's fault.

##### **THA Policy**

If THA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, THA will notify the landlord of the amount of housing assistance payment that the owner must repay. THA will require the owner to repay the amount owed in accordance with the policies defined in THS's HCV Administrative Plan Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA 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 the PHA 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 the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

#### **THA Policy**

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 THA of the vacancy in accordance with its policy.

In order for a vacancy payment request to be considered, it must be made 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 certification and THA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by THA within 10 business days of THA's request, no vacancy payments will be made.

#### **TENANT RENT TO OWNER [24 CFR 983.353]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA 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 payments from the tenant in excess of the tenant rent as determined by the PHA. 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 the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damages to the unit. The PHA 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, the PHA 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.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

**THA Policy**

THA will make utility reimbursements payments directly to the family.

**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 21**

### **PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM**

#### **INTRODUCTION**

This chapter describes HUD regulations and THA 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 the PHA 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**

##### **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.

## **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 2012-32, REV-2 (issued June 15, 2015) and Notice PIH 2012-32, REV-3 (issued January 12, 2017).

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) 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), and Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2015) 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 2012-32, REV-3 is applicable to projects converting assistance through RAD, including those where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PIH 2012-32, REV-3 was published January 12, 2017.

- Notice PIH 2012-32, REV-2, RAD – Final Implementation, REV-2 is applicable to projects converting assistance through RAD upon the expiration of the 30-day comment period after publication of the Notice. PIH Notice 2012-32, REV-2 was published June 15, 2015.

**NOTE: The policies in this chapter follow Notice PIH 2012-32, REV-3. If your project falls under REV-2, applicable policies may be found in the applicable sections of the Instruction Guide for Chapter 21.**

- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- Notice PIH 2016-17, Rental Assistance Demonstration (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 this chapter.**

- 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.

## **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, THA 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.

## **RELOCATION REQUIREMENTS [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.

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. 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, THA 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 broadened 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 THA'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. THA 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 a THA 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, THA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. THA is prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, THA may not terminate a resident's lease if THA 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, THA may treat multiple converted developments on the same site as one for purposes of right to return. Should THA seek to have the resident exercise the right to return at a future phase, THA 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 THA

## **EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH 2012-32, REV-3]**

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. THA 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.

## **PART II: PBV PROJECT SELECTION**

### **OVERVIEW**

Unlike in the standard PBV program where THA 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 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.



## **OWNERSHIP AND CONTROL [Notice PIH 2012-32, REV-3]**

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 THA preserves its interest in the property. Preservation of THA's interest in the property includes but is not limited to the following:

- THA, or an affiliate under its sole control, is the general partner or managing member;
- THA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
- THA retains control over leasing the property and determining program eligibility;
- THA enters into a control agreement by which THA retains consent rights over certain acts of the project owner and retains certain rights over the project;
- Other means that HUD finds acceptable.

## **THA OWNED UNITS [24 CFR 983.59; Notice PIH 2012-32, REV-3; FR Notice 1/18/17]**

If the project is THA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The independent entity that performs these program services may be the unit of general local government for THA's jurisdiction (unless THA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

THA may compensate the independent entity from THA's ongoing administrative fee income (including amounts credited to the administrative fee reserve). THA may not use other program receipts to compensate the independent entity for its services. THA and the independent entity, may not charge the family any fee for the services provided by the independent entity.

## **SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2012-32, REV-3]**

In the case where THA 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, THA 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, THA 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, THA 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.

### **PBV PERCENTAGE LIMITATION [Notice PIH 2012-32, REV-3]**

Covered projects do not count against the maximum amount of assistance THA may utilize for the PBV program, which under the standard PBV program is set at twenty (20%) percent of the authorized units allocated to THA 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.

There is no cap on the number of units that may receive PBV assistance in a project.

### **SITE SELECTION STANDARDS [Notice PIH 2012-32, REV-3; 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.

HUD will conduct a front-end civil rights review of THA’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.

THA 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.

### **ENVIRONMENTAL REVIEW [Notice PIH 2012-32, REV-3]**

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 as part of the 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 2012-32, REV-3.

## **PART III: DWELLING UNITS**

### **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.

### **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)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

### **HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

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. THA 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)

### **INSPECTING UNITS**

#### Initial Inspection [Notice PIH 2012-32, REV-3]

Under RAD, all units must meet HQS no later than the date of completion of the work as indicated in the RCC.

#### Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, THA must inspect the unit. THA 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, THA 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, THA must reinspect one hundred (100%) percent of the contract units in the building.

#### Other Inspections [24 CFR 983.103(e)]

THA 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. THA must take into account complaints and any other information coming to its attention in scheduling inspections.

THA 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 THA supervisory quality control HQS inspections, THA should include a representative sample of both tenant-based and project-based units.

#### Inspecting PHA-Owned Units [24 CFR 983.103(f)]

In the case of THA-owned units, the inspections must be performed by an independent agency designated by THA and approved by HUD. The independent entity must furnish a copy of each inspection report to THA and to the HUD field office where the project is located. THA 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 THA.

## **PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT**

### **OVERVIEW**

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 THA, 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.

### **HAP CONTRACT REQUIREMENTS**

#### Contract Information [PBV Quick Reference Guide (10/14)]

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). The distinction between “existing housing” and “rehabilitated and newly constructed housing” is

overridden by RAD requirements. The RAD rider must be attached to the PBV HAP contract and effectuates the conversion of public housing to PBV under RAD PBV. 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

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, THA 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 2012-32, REV-3]

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 THA. 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, 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 2012-32, REV-3]

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 2012-32, REV-3]

By statute, upon contract expiration, THA will accept, renewal of the contract 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 THA 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)]

THA 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 THA determines that a contract does not comply with HQS, THA 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.

THA 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 the section, Enforcing Owner Compliance.

## **AMENDMENTS TO THE HAP CONTRACT**

### **Floating Units [Notice PIH 2012-32, REV-3]**

In certain mixed-finance projects, THA may ask HUD permission to have assistance 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 THA 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.

THA will float assistance among unoccupied units within the project.

### **Reduction in HAP Contract Units [Notice PIH 2012-32, REV-3]**

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

THA may not reduce the number of assisted units without HUD approval. Any HUD approval of a THA'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, THA must reinstate the unit after the family has vacated the property. If the project is partially assisted, THA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where "floating" units have been permitted.

## **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.

## **OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract, he or she certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;

- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by THA, 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.

#### **VACANCY PAYMENTS [24 CFR 983.352(b)]**

At the discretion of THA, the HAP contract may provide for vacancy payments to the owner for a THA-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 THA 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.

THA 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**

#### **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.

## **PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2012-32, REV-3]**

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 2012-32, REV-3 (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.

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.

## **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 THA, 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 THA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. THA 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.

THA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

## **ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2012-32, REV-3]**

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.



THA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

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, THA will consider transferring such household, consistent with program requirements for administration of waiting lists, to THA'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.

THA 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). THA 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.

THA will assess any changes in racial, ethnic or disability-related tenant composition at each THA site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, THA will use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

#### **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 THA's waiting list. THA may establish selection criteria or preferences for occupancy of particular PBV units.

##### Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2012-32, REV-3]

At least seventy-five (75%) percent of the families admitted to THA's tenant-based and project-based voucher programs during THA'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.

##### 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, THA must first refer families who require such features to the owner.

#### Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2012-32, REV-3]

THA 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.

THA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with THA's plan. THA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.

### **OFFER OF PBV ASSISTANCE**

#### Refusal of Offer [24 CFR 983.251(e)(3)]

THA 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 THA'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, THA 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, THA must provide a briefing packet that explains how THA 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, THA 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. In addition, THA 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***

THA 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.

### **OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

#### **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 THA from THA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on THA's subsidy standards.

#### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify THA of any vacancy or expected vacancy in a contract unit. After receiving such notice, THA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. THA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify THA in writing (mail, fax, or e-mail) within two (2) business days of learning about any vacancy or expected vacancy.

THA will make every reasonable effort to refer families to the owner within fifteen (15) business days of receiving such notice from the owner.

### **TENANT SCREENING [24 CFR 983.255]**

#### **THA Responsibility**

THA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, THA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

THA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

THA must provide the owner with an applicant family's current and prior address (as shown in THA records) and the name and address (if known by THA) of the family's current landlord and any prior landlords.

In addition, THA may offer the owner other information THA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. THA must provide applicant families a description of THA policy on providing information to owners, and THA must give the same types of information to all owners.

THA 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)].

THA 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. THA 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**

### **OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by THA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### **LEASE [24 CFR 983.256; Notice PIH 2012-32, REV-3]**

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 2012-32, REV-3]

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.

THA 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. An example of language that may be included can be found in Attachment-1E of Notice PIH 2012-32, REV-2.

#### 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 THA (the names of family members and any THA-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 (10/14)]

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
- THA terminates the HAP contract
- THA 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 THA a copy of all changes.

The owner must notify THA 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 THA and in accordance with the terms of the lease relating to its amendment. THA 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 2012-32, REV-3]

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 THA’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 THA provide adequate written notice of termination of the lease which may not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, THA 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
- 14 days in the case of nonpayment of rent
- 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

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident’s rights, obligations, welfare, or status with both THA and the project owner. See Chapter 16 Part III: Informal Reviews and Hearings for more information.

### 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 THA 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. THA 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 2012-32, REV-3]

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.

Following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. 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, THA must remove the unit from the HAP contract. If the project is fully assisted, THA must reinstate the unit after the family has vacated the property. If the project is partially assisted, THA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

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 THA 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 (10/14)]

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. Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. THA 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. THA has no liability or responsibility for payment of any amount owed by the family to the owner.

#### **RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2012-32, REV-3]**

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.

## **MOVES**

### Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3]

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.

Following conversion, the standard PBV regulations apply. If THA determines that a family is occupying a wrong-size unit, based on THA'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, THA must promptly notify the family and the owner of this determination, and THA must offer the family the opportunity to receive continued housing assistance in another unit.

THA 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 THA's determination. THA 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 THA offers the family a tenant-based voucher, THA 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, THA must remove the unit from the HAP contract.

If THA 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 THA, or both, THA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by THA and remove the unit from the HAP contract.

When THA 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 thirty (30) day time frame, THA will terminate the housing assistance payments at the expiration of this thirty (30) day period.

THA 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 THA.



## **REEXAMINATIONS [PBV Quick Reference Guide (10/14)]**

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, THA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, THA 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.

## **EARNED INCOME DISALLOWANCE [Notice PIH 2012-32, REV-3]**

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.

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.

## **RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2012-32, REV-3]**

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 provide adequate written notice of termination of the lease, which is no less than:

- 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.

## **INFORMAL REVIEWS AND HEARINGS [Notice PIH 2012-32, REV-3]**

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both THA and the project owner.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(vi). 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), THA will perform the hearing, as is the current standard in the program.
- For any additional hearings required under RAD, THA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving THA(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 THA (as owner or contract administrator).

THA (as 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)–(vi).

THA (as owner) must provide an opportunity for an informal hearing before an eviction.

## **PART VII: DETERMINING CONTRACT RENT**

### **INITIAL CONTRACT RENTS [Notice PIH 2012-32, REV-3]**

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 THA'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. 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.

THA may adjust subsidy (and contract rents) across multiple projects as long as THA does not exceed the aggregate subsidy for all of the projects THA has submitted for conversion under RAD. This use, which HUD refers to as "bundled" rents, is permissible when THA submits applications for two or more projects. There is no limit to the number of projects that THA may bundle.

Notwithstanding the current funding level, the initial rents are set at the lower of:

- One hundred ten (110%) percent of the fair market rent (FMR) or THA's exception payment standard approved by HUD;
- Reasonable rent in comparison to the unassisted housing market; or
- An amount determined by current funding.
  - Adjusted through rent bundling or reconfiguration of units

#### **ADJUSTING CONTRACT RENTS [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]**

Contract rents will be adjusted annually by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, 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, 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

THA (or independent entity, if the project is THA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least one hundred twenty (120) days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to THA administering the PBV assistance (or the independent entity). THA 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 can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and 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.

### **UTILITY ALLOWANCES [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]**

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, THA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. THA may request a waiver from HUD in order to establish a site-specific utility allowance schedule.

After conversion, unless a waiver is requested and approved by HUD, THA must 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. These utility allowances are effective for in-place families at recertification.

THA will establish a site-specific utility allowance schedule for the RAD developments, based on the waiver request and approval of HUD.

### **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 THA, 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, THA 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 THA. The comparability analysis may be performed by THA 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.

## **THA Owned Units**

For THA-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 THA-owned units to THA and to the HUD field office where the project is located.

## **PART VIII: PAYMENTS TO OWNER**

### **HOUSING ASSISTANCE PAYMENTS**

During the term of the HAP contract, THA 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 THA agree on a later date.

Except for discretionary vacancy payments, THA 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 THA 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.

### **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 THA determines that the vacancy is the owner's fault.

If THA determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, THA will notify the landlord of the amount of housing assistance payment that the owner must repay. THA will require the owner to repay the amount owed in accordance with THA policy.

At the discretion of THA, the HAP contract may provide for vacancy payments to the owner. THA may only make vacancy payments if:

- The owner gives THA 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 THA 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 THA and must provide any information or substantiation required by THA 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 THA of the vacancy in accordance with the policy 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 THA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by THA within ten (10) business days of THA's request, no vacancy payments will be made.

### **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 THA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in THA'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 THA 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 THA. The owner must immediately return any excess payment to the tenant.

#### Tenant and THA 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 THA.

Likewise, THA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. THA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. THA 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, THA 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.

THA will make utility reimbursements directly to the family.

## **PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2012-32, REV-3]**

For in-place tenants, if a tenant's monthly rent increases 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.

THA will implement a three-year phase-in for in-place families whose rent increases by more than the greater of ten (10%) percent or twenty-five (\$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

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): fifty (50%) percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR 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.

## **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 22

### CHOICE MOBILITY POLICY

As part of the Rental Assistance Demonstration (RAD), HUD requires Housing Authorities to give residents the choice to request a Housing Choice Voucher after living in a Project Based Voucher (PBV) property for 12 months. HUD calls this “Choice Mobility”. When THA transitions Public Housing properties to PBV, the Choice Mobility policy would be followed as outlined in this Chapter.

#### I. DEFINITIONS:

1. **Covered Project:** Any Public Housing property that has converted to the Project Based Voucher (PBV) program through RAD.
2. **Choice Mobility:** The opportunity for families to request a Housing Choice Voucher (HCV) and move into the private rental market with voucher assistance.
3. **Turnover Caps:** The maximum number of families that can receive a voucher in a calendar year. PHAs can establish caps for the maximum number of families that can receive a voucher from each property in the calendar year. PHAs can also establish caps for the number of vouchers from all properties combined that can receive a voucher in a calendar year.

#### II. ELIGIBILITY AND VOUCHER CAPS

HUD seeks to provide all residents of Covered Projects with viable Choice options. The Housing Choice Voucher (HCV) program provides the most options for families to choose where they want to live within that housing authority’s jurisdiction.

PHAs that are applying to convert the assistance of a project to PBV are required to provide a Choice-Mobility option to residents of Covered Projects in accordance with the following:

- A. Resident Eligibility.** Residents have a right to move with tenant-based rental assistance (e.g., Housing Choice Voucher (HCV)) the later of: (a) 12 months from the date of execution of the HAP or (b) 12 months after the move-in date.
- B. Voucher Inventory Turnover Cap.** Recognizing the limitation on the availability of turnover vouchers from year to year, a voucher agency would not be required, in any year, to provide more than one-third of its turnover vouchers to the residents of Covered Projects. While a voucher agency is not



required to establish a voucher inventory turnover cap, if such a cap is implemented the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received.

### **THA Policy**

THA will provide all residents the opportunity to request a Housing Choice Voucher after the later of a) 12 month from the date of the execution of the HAP contract, or b) 12 months from the date of move in.

- If a family moves from one covered project to another covered project, their 12-month clock resets. These families will have to wait for 12 months from the date of move in to the new property, before they can exercise Choice Mobility.
- If a family transfers within the same covered project, their 12-month clock does not reset. They will be eligible to request a Choice Mobility voucher at the later of: (a) 12 months from the date of execution of the HAP or (b) 12 months after the move-in date.
- A family may request the choice mobility voucher at any time after completing the 12-month requirement and remain eligible if they continue living at the same covered project.
- A family that receives a Choice Mobility voucher, but allows it to expire without using it, can request another Choice Mobility voucher. However, they must wait 1 year from the date of the issuance of the expired voucher before requesting another Choice Mobility voucher. When they do request again, they will start the process from the beginning and are subject to any waiting lists in place at the time.

THA will implement the voucher inventory cap. Each calendar year, the HCV program will make 75% of new HCV units available to families exercising Choice Mobility from any of its 13 covered projects transitioning into PBV through the Rental Assistance Demonstration (RAD). THA will establish an agency-wide Choice Mobility waiting list for times when there are more requests for vouchers than vouchers available due to the cap.

THA will not implement the project turnover cap.

The HCV program also provides the opportunity to move to other parts of the country by exercising the portability options. Families will be required to follow the housing authority's guidelines regarding when they can exercise the portability options.

### **THA Policy**

To to be eligible for the Choice Mobility option, families must live in Tulsa, in a THA owned PBV property for at least 1 year. These families meet THA's HCV

program requirements and are eligible to exercise portability when they first receive a voucher.

### **III. NOTIFICATION OF ELIGIBILITY**

In keeping with HUD's goal to provide viable Choice Mobility options to residents of all covered projects, PHA's should provide clear notification and explanation of the Choice Mobility options available to them.

#### **THA Policy**

At the time of the initial lease signing, THA will provide a copy of the Choice Mobility policy to the family and explain the Choice Mobility options. THA will provide clear direction and guidance regarding how to request a Choice Mobility voucher. Residents will be asked to sign a certification indicating that they received the Choice Mobility policy.

In addition, THA will provide a written notification to the residents as part of the 120 Day recertification letter that each family receives before their annual recertification appointment.

If anything changes in the method for requesting the Choice Mobility voucher, THA will provide written notification to the residents at least 30 days in advance of the change becoming effective.

### **IV. WAITING LIST**

PHA's that establish a voucher turnover cap are required to create a waiting list for families that request the Choice Mobility voucher.

#### **THA Policy**

THA will establish a Choice Mobility waiting list for all eligible families that request a voucher. The wait list will be managed by THA's Rental Assistance Department. Since THA is not implementing a project turnover cap, there will be no project specific waiting lists. Eligible families that request the voucher will be placed directly onto the Choice Mobility waiting list.

THA will remove families from the Choice Mobility waiting list who move out of the covered project before receiving a voucher.

- If a family moves out of the covered project into the private rental market after being placed on the Choice Mobility waiting list, they are no longer

eligible for the voucher and their name will be removed from the Choice Mobility wait list.

- If a family moves from one covered project to another covered project after being placed on the Choice Mobility waiting list, their 1 year clock resets. They will be removed from the Choice Mobility waiting list. They can re-apply once they have lived at the new covered project for 1 year.

Families that are already on the regular HCV waiting list will be allowed to request a Choice Mobility voucher if they are eligible. Families will be allowed to keep their place on both lists until one of the following happens:

- The family moves out of the covered project and is no longer eligible to be on the Choice Mobility list. The family will be removed from the Choice Mobility waiting list, but maintain their position on the regular HCV waiting list.
- The family voluntarily withdraws their name from one or both lists.
- The family receives a voucher and exercises the voucher by leasing up in the voucher program. The family will then be removed from the other list.
  - If a family receives a voucher through the regular HCV waiting list, but does not exercise the voucher (i.e. lease up in the voucher program), they will remain on the Choice Mobility waiting list.

## **V. EXERCISING THE CHOICE MOBILITY**

To ensure that all residents at all covered projects have an equal and fair opportunity to request and receive a Choice Mobility voucher, PHAs should provide clear guidance and instructions regarding how to apply for the voucher.

### **THA Policy**

To maintain a safe, orderly and fair process for families to request a Choice Mobility voucher, THA will implement the following:

- **Voucher Request:**
  - When a family is eligible to request a voucher, they must do so in writing using the voucher request form provided at the property
  - The written request must be submitted to the management office at the covered property.
  - Once received, the property management staff will forward the request to the Rental Assistance Department to be placed on the Choice Mobility waiting list.

- **Acknowledgement of Request:**
  - Once the request is received and processed onto the Choice Mobility waiting list, the Rental Assistance Department will send the family a notice acknowledging receipt of the voucher request.
  - This is the family's confirmation that they are on the Choice Mobility wait list.
  - The acknowledgement of request will be sent to the family within 10 business days of receipt of the request.
- **Random Sorting:**
  - Once there are families on the Choice Mobility waiting list, THA will select 1/3 of its monthly draw from the Choice Mobility waiting list.
  - Before each draw, THA will conduct a random sort of the Choice Mobility waiting list.
  - The random sort protects each individual property from high volume resident turnover, while providing each family an equal opportunity to receive a voucher.

When a family is drawn from the Choice Mobility waiting list, they will be invited to attend the Housing Choice Voucher (HCV) program eligibility interview.

## **VI. SCREENING PROCESS FOR THE CHOICE MOBILITY HCV VOUCHER**

To receive a Housing Choice Voucher, families will be required to meet all the eligibility requirements for the HCV program in effect at the time of their eligibility processing. These requirements can be found in the HCV Administrative Plan.

### **THA Policy**

THA will screen all Choice Mobility families using the same criteria as for all other families. However, THA will streamline the eligibility determination process in the following ways:

- THA will use the certifications of identification, age, social security number and citizenship that is already has on file for the family.
- THA will review the most recent certification and 50058 for basic information about the family composition and annual household income.
- THA will only require new verification of income if the verification for the most recent certification are too old to meet the criteria for the HCV program.

If eligible to receive a voucher, families will follow the HCV program rules and guidelines for using the voucher. Families are reminded of the following:

- **The voucher has an expiration date.** If extensions are available, families must follow the HCV program guidelines in effect at that time to request an extension. Failure to use the voucher before it expires will result in loss of the voucher.
- **Receipt of a voucher is not a guarantee that the family will be able to find a place to use the voucher.** Landlords have their own screening criteria which families will have to meet to be able to live at that property.
- **The family's lease at their current property requires at least 30 day's notice to vacate.** The family must provide this notice to their current property management staff.

## **VII. TRANSITIONING FROM PROJECT BASED VOUCHER PROGRAM TO THE HOUSING VOUCHER PROGRAM**

When transitioning from PBV to the HCV program with a Choice Mobility voucher, program participants are required to fulfill their obligations to the terms of the PBV lease as well as all HCV requirements. Families are not allowed to receive assistance from both programs at the same time. To assist with the transition process and prevent duplicate assistance, PHA's should develop policies and guidelines to ensure that both programs requirements are met.

### **THA Policy**

Residents at a THA PBV property will be required to complete the following when transitioning to THA's HCV program with a choice mobility voucher:

- Remain current on all rent, fees or other balances owed to the PBV property.
  - Families with outstanding debts who are in a repayment agreement and who are current on their payments within the agreement are considered eligible.
  - Families with active repayment agreements must continue to make all payments until the balance is paid in full or risk losing their voucher assistance.
- Provide at least 30 days notice of their intent to vacate the unit to the property management.
- Participate in the move out inspection.
- Turn in their keys to the property management.
- Pay all move out expenses that may be charged after moving to their new home with voucher assistance.
  - If necessary, repayment agreements can be established to pay any outstanding move out balances.
  - Failure to pay the move out balance or to remain current in any repayment agreements that are established is grounds for termination of the family's voucher assistance.

- Pay all moving expenses related to the move from the PBV property to their voucher assisted unit.

THA and PBV property staff will work to facilitate this process by doing the following:

- Communicate between departments information related to the issuance of the voucher, move out notices, voucher extensions and specific dates of move out/move in.
  - Note: Coordination of communication between departments does not remove any of the family's obligations.
- Communicate the move out date from the PBV program to the HCV Intake Team to prevent the overlapping of assistance.
  - The move out from PBV will not be effective until the property manager receives the keys from the resident family.
  - The family will be required to pay the full rental cost for any days that they have moved in to their new unit before returning the keys to the PBV property management.
  - The voucher assistance will not start until the day after the family provides the keys to the PBV property management.

## **Chapter 23**

### **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 Public Housing Agencies (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.

PHAs 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 the PHA 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 PHA 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**

### **EHV-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 PHA programs or vouchers. THA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### **Housing Assistance Payments (HAP) Funding**

ARP funding obligated to THA 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 THA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on THA'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 following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that THA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - \$400 per EHV allocated to THA, 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 (EHV-I.B).
- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHVs:
  - \$100 for each EHV initially leased, if THA 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.
  - Placement fees:
    - o \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - o \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.



- o HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
- Placement/expedited issuance 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:
  - PHAs are 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 PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (EHV-I.B):
  - The fee is allocated once THA's CACC is amended to reflect EHV funding.
  - The amount allocated is \$3,500 for each EHV allocated. Note: services fee amount is not tied to each voucher, but instead is the combined total of the services fees are available to the PHA to design a menu of services that will best address the leasing challenges faced by the EHV eligible families in the PHA's community.

## **EHV-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 tenant-readiness services

THA must establish the eligible uses and the parameters and requirements for service fees in THA's administrative plan.

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 PHA forms, and helping to expedite the EHV leasing process for the family.

**Application fees.** THA may choose to assist the family should this not be provided by the CoC.

**Security deposit assistance.** The amount of the security deposit assistance may not exceed \$500. The security deposit payment will be processed once the lease in process is

completed and the first rental subsidy payment has been made. THA will pay the security deposit assistance directly to the owner.

**Owner incentive payments.** THA may make up to a \$1,000 incentive payment to owners that agree to lease their unit to an EHV family. The incentive payment will be processed once the lease in process is completed and the first rental subsidy payment has been made to the owner.

Payments will be made as a single payment at the beginning of the assisted lease term as described above. Owner incentive 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.

**Essential household items.** THA may use services fee funding up to \$1,000 to assist the family with some or all the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

Any services fee amounts not expended for these eligible uses when THA's EHV program ends must be remitted to HUD.

## **PART II: PARTNERING AGENCIES**

### **EHV-II.A. CONTINUUM OF CARE (CoC)**

PHAs that accept an allocation of EHV are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) entities to establish a partnership for the administration of EHV.

THA will enter into MOUs with Continuum of Care (CoC) agencies, as applicable.

### **EHV-II.B. OTHER PARTNERING ORGANIZATIONS**

THA may, but is not required to, partner with other organizations serving persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If THA chooses to partner with such agencies, THA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between THA and CoC.

THA may partner with other organizations serving persons experiencing homelessness, such as, homeless shelters, victim services providers (VSPs) and other community partners. If THA chooses to partner with such agencies, THA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between THA and CoC.

### **EHV-II.C. REFERRALS**

#### **CoC and Partnering Agency Referrals**

The primary responsibility of the CoC under the MOU with THA is to make direct referrals of qualifying individuals and families to THA. THA must generally refer a family that is seeking EHV assistance directly from THA 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 EHV. The CoC or other direct referral partner must provide supporting documentation to THA 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 THA. The CoC or other partnering agency must certify that the EHV applicants they refer to THA meet at least one of the four EHV eligibility criteria. THA 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 are required to use the THA certification form. Victim services providers are required to use the THA certification form when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, THA and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions or liaison designee 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.

THA's liaison responsible for acceptance of referrals may contact the CoC or partnering agency liaison via email to request EHV referrals if the referrals are not actively being sent to THA.

### **Offers of Assistance with CoC Referral**

THA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA.

THA may also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to THA; 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 THA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or THA and CoC cannot identify any such alternative referral partner agencies), HUD may permit THA 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**

### **EHV-III. A. HCV WAITING LIST**

The regulation that requires THA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 3 does not apply to PHAs operating the EHV program. Direct referrals are not added to THA's HCV waiting list.

THA must inform families on the HCV waiting list of the availability of EHV's 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.

THA will post information about the EHV program for families on THA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which EHV's are limited

Clearly state that the availability of these EHV's is managed through a direct referral process

Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for EHV assistance

THA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities. THA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 1.

### **EHV-III.B. EHV WAITING LIST**

The HCV regulations requiring THA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHV's available, THA 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 PHA policies in Chapter 3 regarding opening and closing the HCV waiting list. THA 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. EHV's are available on a first come, first served basis.

## **EHV-III.C. PREFERENCES**

### **HCV Waiting List Preferences**

If THA has a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the regular HCV program, THA must refer any applicant on the waiting list that indicated they qualified for this preference to the CoC or the applicable partnering referral agency.

THA does offer a VAWA preference for the HCV waiting list and will refer all applicants to the CoC or applicable partnering referral agency.

### **EHV Waiting List Preferences**

With the exception of a residency preference, THA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHV. THA 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**

### **EHV-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 THA. THA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### **EHV-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBILITY**

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 THA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. THA must retain this documentation as part of the family's file.

## **EHV-IV.C. PHA 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, PHA policies regarding denials 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, THA must approve additional family members and may apply its regular HCV screening criteria.

### **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.

THA 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.

While THA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, THA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

## **EHV-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, THA may consider self-certification the highest form of income verification at admission. 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 60-day period prior to admission or voucher issuance but is not dated within 60 days of THA's request.

## **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, THA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 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 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search.

If THA later determines that an ineligible family received assistance, THA must take steps to terminate that family from the program in accordance with Chapter 15.

## **EHV-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION**

For the EHV program, THA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, THA 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 180 days of admission to be eligible for continued assistance, pending verification, unless THA 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.

If THA determines that an ineligible family received assistance, THA must take steps to terminate that family from the program.

THA 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 within 180 days of admission. THA may provide an additional 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 THA determines that an ineligible family received assistance, THA will take steps to terminate that family from the program in accordance with policies in Chapter 15.

## **EHV-IV.F. AGE AND DISABILITY VERIFICATION**

THA 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, THA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If THA determines that an ineligible family received assistance, THA must take steps to terminate that family from the program.

THA 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 THA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, THA will verify the information in EIV or through other third-party verification if the information is not available in EIV. THA 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 THA determines that an ineligible family received assistance, THA will take steps to terminate that family from the program in accordance with policies in Chapter 15.

#### **EHV-IV.G. INCOME TARGETING**

THA must determine income eligibility for EHV families in accordance with 24 CFR 982.201; however, income targeting requirements do not apply for EHV families. THA 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**

#### **EHV-V.A. INITIAL VOUCHER TERM**

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days.

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval within the 120-day period unless THA grants an extension.

#### **EHV-V.B. HOUSING SEARCH ASSISTANCE**

As identified in the MOU between THA and CoC, the following housing search assistance will be provided to each EHV family:

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 housing search assistance for eligible individuals and families

Assist the family with the completion of rental applications and THA forms

#### **EHV-V.C. INITIAL LEASE TERM**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months.



## **EHV-V.D. PORTABILITY**

The normal HCV portability procedures and requirements outlined in Chapter 13 generally apply to EHV's. Exceptions are addressed below.

### **Nonresident Applicants**

Under EHV, 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.

### **Billing and Absorption**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV's under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV's 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 the initial PHA. 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 the initial PHA 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 the initial PHA.

### **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, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA 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).

## **EHV-V.E. PAYMENT STANDARDS**

### **Payment Standard Schedule**

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, THA may, but is not required to, establish separate higher payment standards for EHV's. Lower EHV payment standards are not permitted. If THA is increasing the regular HCV payment standard, THA 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 THA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA 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. THA may establish an exception payment standard up to 120 percent (as opposed to 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.

THA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

THA will not establish a higher payment standard amount for EHV. THA will use the same payment standards for HCV and EHV.

### **Rent Reasonableness**

All rent reasonableness requirements apply to EHV units, regardless of whether THA has established an alternative or exception EHV payment standard.

### **Increases in Payment Standards**

The requirement that THA 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. THA 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.

THA will not establish an alternative policy for increases in the payment standard.

### **EHV-V.F. TERMINATION OF VOUCHERS**

After September 30, 2023, a PHA may not reissue EHV 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, THA 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 EHV 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 EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV to cease

leasing any unleased EHV's 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 THA 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 THA 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 THA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV's 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 EHV's and cannot be used for regular HCV's. 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.

THA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

THA 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 EHV's in accordance with the HCV program requirements at 24 CFR 982.158.

## Screening of Section 8 Applicants & Participants

### POLICY:

It shall be the policy of the Housing Authority of the City of Tulsa for all applicants and those participants completing their annual recertification, to undergo a criminal background screening before being offered initial or continued assistance through an assisted housing program. Each applicant/participant must complete a Release of Information Form THA-481. Those applicants/participants involved in criminal or drug activity and/or alcohol abuse within a three-year period previous to making application may be denied assistance. Participants completing annual recertification, for whom it is determined at such time have been involved in criminal or drug activity and/or alcohol abuse, may have their assistance terminated.

Criminal activities to be considered are crimes that threaten health, safety, or right to peaceful enjoyment of the premises. Such crimes are: (1) crimes of violence (i.e., murder, battery, assault); (2) crimes against property (i.e., burglary, larceny, robbery); (3) crimes that impose a financial cost (i.e., vandalism, arson); and (4) crimes that involve disturbing the peace, drug-related activities (i.e., sale, manufacture, possession or use of illegal controlled substances) and/or alcohol abuse, or any activity resulting in a felony conviction, any drug or violent criminal activity in or around an assisted housing unit.

It shall further be the policy of the Housing Authority of the City of Tulsa that alcohol abuse occurring on or off the assisted premises, will be grounds for termination of assistance if it is determined that such abuse interferes with the health, safety, or right to peaceful enjoyment of the premises by other tenants. THA will prohibit admission to any federal housing program for any household that includes an individual subject to the State Sex Offender Registration Program.

Applicants/participants denied housing assistance with such criminal histories might be considered on a case-by-case basis. Applicants/participants denied housing assistance for criminal or drug related activity and/or alcohol abuse would be provided an opportunity for an informal review/hearing on the determination. Nothing in this policy negates the provisions for applicants'/participants' rights to informal reviews/hearings.

### PROCEDURE:

1. Form THA-481, "Release of Information" will be forwarded by Authority personnel to the THA Security Coordinator.
2. The Security Coordinator will do a criminal background screening using information contained in records maintained by the Tulsa Police Department and Tulsa County Court Clerk and/or National Crime Information Center (NCIC)

Appendix I

3. The Security Coordinator, using factors set out in policy, will determine:
  - A. Applicant/Participant meets standards. Defined as no record of violent crime or illegal drug activity and/or alcohol abuse within the past three years (Applicants), or since the previous criminal background screening (Participants).
  - B. Applicant does not meet standards. Defined as having a record of arrest for violent crime and/or illegal drug activity and/or alcohol abuse within the past three (3) years. A record of criminal or drug related arrests and/or alcohol abuse spanning several years beyond three (3) years may be considered.
  - C. Participant does not meet standards. Defined as having a record of arrest or violent crime and/or illegal drug activity and/or alcohol abuse within the time period elapsed since the previous criminal background screening conducted by THA.
4. The THA-481s for Section 8 applicants/participants who do not meet standards will be routed to the Director of Assisted Housing for review and tracking purposes.
5. The Security Coordinator will return the completed Form THA-481 for all applicants/participants meeting standards to the requesting THA personnel.
6. The completed THA-481 will be placed in the applicant's/participant's file. It will be maintained confidentially, not misused or improperly disseminated.
7. When an applicant/participant is defined as ineligible for admission or continued assistance, the appropriate THA personnel will notify the applicant/participant in writing, and provide them with an opportunity for an informal review/hearing on the determination.

## **HOUSING AUTHORITY OF THE CITY OF TULSA VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY**

### **I. Purpose and Applicability**

The purpose of this policy (herein called "Policy") is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162), **the Violence Against Women Act Conforming Amendments (Final Rule effective November 26, 2010)**, and more generally to set forth THA's policies and procedures regarding domestic violence, dating violence, and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by THA of the Section 8 Housing Choice Voucher, Public Housing and the Section 8 Project-based program under the United States Housing Act of 1937. Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence.

### **II. Goals and Objectives**

This Policy has the following principal goals and objectives:

- A. Maintaining compliance with all applicable legal requirements imposed by VAWA;
- B. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, or stalking who are assisted by THA;
- C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, or stalking;
- D. Creating and maintaining collaborative arrangements between THA, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence and stalking, who are assisted by THA; and
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by THA.

### **III. Other THA Policies and Procedures**

This Policy shall be referenced in and attached to THA's Five-Year Public Housing Agency Plan. THA's annual public housing agency plan shall also contain information concerning THA's activities, services or programs relating to domestic violence, dating violence, and stalking. To the extent any provision of this policy shall vary or contradict any previously adopted policy or procedure of THA, the provisions of this Policy shall prevail.

#### IV. Definitions

As used in this Policy:

- A. *Domestic Violence* – The term ‘domestic violence’ includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited 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.”
- B. *Dating Violence* – means violence committed by a person—
  - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - (i) The length of the relationship.
    - (ii) The type of relationship.
    - (iii) The frequency of interaction between the persons involved in the relationship.
- C. *Stalking* – means –
  - (A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and
  - (B) 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 –
    - (i) that person;
    - (ii) a member of the immediate family of that person; or
    - (iii) the spouse or intimate partner of that person;
- D. *Immediate Family Member* - means, with respect to a person –
  - (A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
  - (B) any other person living in the household of that person and related to that person by blood or marriage.
- E. *Perpetrator* – means person who commits an act of domestic violence, dating violence or stalking against a victim.

## **V. Admissions and Screening**

- A. *Non-Denial of Assistance.* THA will not deny admission to the Section 8 Housing Choice Voucher program, Public Housing or the Section 8 Project-based programs to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission.
- B. *Admissions Preference.* (Section 8 Housing Choice Voucher Program and Public Housing only) Applicants for housing assistance from THA will receive a preference in admissions if the applicant family is residing in a public or private shelter as a result of domestic violence; and/has had actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who was living in the unit with the family.

The actual or threatened violence must have occurred within the past 6 months prior to certification or be of a continuing nature. Domestic violence will be considered "continuing" if the applicant provides medical records, police reports, or statements from a qualified domestic violence social worker documenting repeated abuse and the most recent episode was not more than six (6) months prior to the date that THA is certifying the applicant eligible for assistance.

## **VI. Termination of Tenancy or Assistance**

- A. *VAWA Protections.* Under VAWA, public housing residents and persons assisted under the Section 8 Housing Choice Voucher and Section 8 Project-based programs have the following specific protections, which will be observed by THA:
1. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a "serious or repeated" violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
  2. In addition to the foregoing, tenancy or assistance will not be terminated by THA as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the tenant's control, and the tenant or an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:
    - (a) Nothing contained in this paragraph shall limit any otherwise available authority of THA or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither THA nor a Section 8 manager or owner may apply a more demanding



standard to the victim of domestic violence dating violence or stalking than that applied to other tenants.

- (b) Nothing contained in this paragraph shall be construed to limit the authority of THA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or THA, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property.

B. *Removal of Perpetrator.* Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, THA or a Section 8 owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence against family members or others. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by THA. Leases at the option of Section 8 owners or managers, leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by THA, shall contain provisions setting forth the substance of this paragraph.

## VII. Verification of Domestic Violence, Dating Violence or Stalking

- A. *Requirement for Verification.* The law allows, but does not require, a Section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. THA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by THA. Section 8 owners or managers receiving rental assistance administered by THA may elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking may be accomplished in one of the following three ways:

1. *HUD-approved form – (HUD form 50066)* by providing to THA a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator.

2. *Other documentation* - by providing to THA or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
  3. *Police or court record* - by providing to THA a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.
- B. *Time allowed to provide verification/ failure to provide.* An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence or stalking, and who is requested by THA, or a Section 8 owner or manager to provide verification, must provide such verification within 14 business days after receipt of the **written** request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.
- C. *Waiver of verification requirement.* The Vice President of Assisted Housing or the **Senior Vice President** of Housing Operations or Designee may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Vice President of Assisted Housing or the **Senior Vice President** of Housing Operations or Designee. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

## VIII. Confidentiality

- A. *Right of confidentiality.* All information (including the fact that an individual is a victim of domestic violence, dating violence or stalking) provided to THA shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is:
1. requested or consented to by the individual in writing, or
  2. required for use in a Public Housing or Section 8 Projected-based site eviction proceedings or in connection with termination of Section 8 assistance, as permitted in VAWA, or
  3. otherwise required by applicable law.

- B. *Notification of rights.* All tenants of public housing and tenants participating in the Section 8 tenant or project-based rental assistance programs administered by THA shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

## **IX. Transfer to New Residence**

- A. *Application for transfer.* In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, or stalking, THA will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer of a Section 8 participant or a Public Housing resident to a different unit in order to reduce the level of risk to the individual. A participant/resident who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the participant or another member of the household who is or was the victim of domestic violence dating violence or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.
- B. *Portability.* A Section 8 Housing Choice Voucher participant will not be denied portability to a unit located in another jurisdiction (notwithstanding the term of the tenant's existing lease has not expired, or the family has not occupied the unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the unit in order to protect a health or safety of an individual member of the household who is or has been the victim of domestic violence dating violence or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

## **X. Court Orders/Family Break-up**

- A. *Court orders.* It is THA's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by THA. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.
- B. *Family break-up.* Other THA policies regarding family break-up are contained in THA's Section 8 Administrative Plan, Occupancy Policy and Resident Selection Plans.

## **XI. Relationships with Service Providers**

It is the policy of THA to cooperate with organizations and entities, both private and governmental, which provide shelter and/or services to victims of domestic violence. If THA staff becomes aware that an individual assisted by THA is a victim of domestic violence, dating violence or stalking, THA will refer the victim to such providers of shelter or services as appropriate. This Policy does not create any legal obligation requiring THA either to maintain a

relationship with any particular provider of shelter or services to victims or domestic violence or to make a referral in any particular case.

## **XII. Notification**

THA shall provide written notification to applicants, residents, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

## **XIII. Relationship with Other Applicable Laws**

Neither VAWA nor this Policy implementing it shall preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence or stalking.

## **XIV. Amendment**

This policy may be amended from time to time by THA as approved by the THA Board of Commissioners.

## **IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)**

### **IMPLEMENTATION PLAN**

#### **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 Public Housing and Section 8 programs. 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 plan incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register* and Part II of this guidance published January 22, 2007.

The Housing Authority of the City of Tulsa (THA) 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 persons are 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 Plan, LEP persons are Public Housing and Section 8 applicants and resident/participant families.

In order to determine the level of access needed by LEP persons, THA 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 programs; (2) the frequency with which LEP persons come into contact with the programs; (3) the nature and importance of the programs, activity, or service provided by the programs to people's lives; and (4) the resources available to THA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on THA.

#### **ORAL INTERPRETATION**

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

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

Where feasible, THA will attempt to train and/or hire bilingual staff to be available to act as interpreters and translators. Where feasible and possible, THA will encourage the use of qualified community volunteers.

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 THA. The interpreter may be a family member or friend.

## WRITTEN TRANSLATION

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

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

- THA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, THA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

## IMPLEMENTATION

The following four steps will be taken in THA's plan, (1) identifying LEP individuals who may need language assistance; (2) identifying language assistance measures; (3) training staff; (4) monitoring and updating the LEP Plan annually if needed.

According to the U.S. Census Bureau, 2005-2007 American Community Survey 7.9 percent of Tulsans in the Metropolitan Statistical Area age 5 years and over speak a language other than English in their homes; 5.2 percent of the population in Tulsa County age 5 and older speak English less than "very well". Approximately 43,000 of the 828,504 Tulsans in the Metropolitan Statistical Area age 5 and over speak Spanish in their homes and are below the poverty level.<sup>1</sup>

This is the population that could come into contact with either THA's Public Housing or Section 8 programs as applicants. THA has determined housing to be one of the basic needs of any family. For this portion of the population THA will use the vital program forms that have been translated and are provided on the U.S. Department of Housing and Urban Developments (HUD) website for LEP persons <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm#forms>. THA will provide oral

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<sup>1</sup> Data are based on a sample and are subject to sampling variability. The degree for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error.

interpreters as requested by the families, if the family does not choose to use their own interpreters.

THA's current population of 17,307 residents and participants consist of 1 percent, 252 Asian people and 13 percent of the total population have Hispanic decent, 2,289 people.<sup>2</sup>

THA owns and manages the Meadows Apartments a Section 8 Project-Based site located at 2820 S. 116<sup>th</sup> E Ave, Tulsa OK. The current population is 14 percent Asian, 68 residents and 23 percent of the population is of Hispanic decent, 110 residents according to THA Demographic Reports.

THA will use forms found on HUD's website and oral interpreters as needed for this population mix. In accordance with local law THA will require the LEP persons to sign a lease printed in English on the Public Housing and Section 8 Project-Based sites as well as a lease written in their primary language.

THA currently employees a Property Management Assistant, Ashlei Thompson and a Utility Worker, Alejandro Gonzalez at the Meadows both are fluent in Spanish, and THA also employees an Accounts Payable Clerk, Anh Nguyen who is fluent in Vietnamese. These employees are available for oral translation of forms and interpretation during meetings (i.e. annual and interim recertifications, hearings and reviews).

THA staff will be train on the Plan, what forms can be found on the website and will be made familiar with THA staff that is available for oral interpretation, if the family does not wish to use a translator of their choose.

This Plan will be reviewed and updated annually by the Executive Vice President/ Chief Operations Officer as needed.

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<sup>2</sup> Information from THA's Demographic Reports for the Section 8 Tenant- Based Program as of 7/23/2009; the Section 8 Project-Based Program as of 7/23/09; and THA's Public Housing as of 7/23/2009.