

ADMINISTRATIVE PLAN

FOR THE

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

SCCHA - Adminplan 4/9/08
Updated - 4/11/12
Updated - 5/20/14
Updated - 4/15/15
Updated - 4/13/16
Updated - 5/1/17
Updated - 4/12/18
Updated - 4/10/19
Updated - 6/10/20
Updated - 8/10/21
Updated - 4/13/22
Updated - 6/14/23

Approved by the St. Clair County Housing Authority Board of Commissioners:

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Updated - 4/13/22
Updated - 6/14/23

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GLOSSARY

APPENDIX I - PIH 2017-21

Introduction

ABOUT THE REFERENCES CITED IN THE ADMINISTRATIVE PLAN

AUTHORITIES IN THE ADMINISTRATIVE PLAN

Authority for Public Housing Authority (PHA) policies is derived from many sources. Primary among these sources are regulations and guidance issued by The U.S. Department of Housing and Urban Development (HUD). State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy.

HUD

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

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

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

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

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

Abbreviations

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

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

Resources and Where to Find Them

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

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://www.hudclips.org/sub_nonhud/cgi/pdf/24672.pdf
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice http://www.hudclips.org/sub_nonhud/cgi/pdf/3365.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm

Federal Register http://www.access.gpo.gov/su_docs/aces/fr-cont.html
General Income and Rent Determination FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001. www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD Guidelines for Projecting Annual Income When Upfront Income Verification (UIV) Data is Available http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/guideprojincome.doc
HUD-50058 Instruction Booklet http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf
Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 http://www.hudclips.org/sub_nonhud/cgi/pdf/31267.pdf
OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133/a133.html
PIH Notice 2002-01 (HA), Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/02/pih2002-1.pdf
PIH Notice 2004-01 (HA), Verification Guidance, March 9, 2004. www.hud.gov/offices/pih/publications/notices/04/pih2004-1.pdf
PIH Notice 2004-18 (HA), Verification of Social Security (SS) and Supplemental Security Income (SSI) Benefits. http://www.hud.gov/offices/pih/publications/notices/04/pih2004-18.pdf
PIH Notice 2005-01 (HA), Implementation of the Consolidated Appropriations Act (HR 4818 – H Rept 108-792), 2005 Funding Provisions for the Housing Choice Voucher Program. http://www.hud.gov/offices/pih/publications/notices/05/pih2005-1.pdf
PIH Notice 2005-7 (HA), Rental Integrity Monitoring (RIM) Disallowed Costs and Sanctions Under the Rental Housing Integrity Improvement Project (RHIP) Initiative http://www.hud.gov/offices/pih/publications/notices/05/pih2005-7.pdf
PIH Notice 2005-9 (HA), Public Housing Agency (PHA) Flexibility to Manage the Housing Choice Voucher Program in 2005. http://www.hud.gov/offices/pih/publications/notices/05/pih2005-9.pdf
PIH Notice 2006-23 (HA), Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 http://www.hud.gov/offices/pih/publications/notices/06/pih2006-23.pdf

Project-Based Voucher Program; Final Rule
http://www.hudclips.org/sub_nonhud/cgi/pdf/20035.pdf
Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm
Verification FAQ
www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm

The HUD website is <http://www.hud.gov/index.html>.

Guidebooks, handbooks and other HUD published and federal resources may be found at the HUDClips website: www.hudclips.org.

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

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

There are three parts to this chapter:

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

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

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

PART I: THE SCCHA

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF THE SCCHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the St. Clair County Housing Authority (SCCHA) for the jurisdiction of St. Clair County, Illinois.

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

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

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

1-I.C. SCCHA MISSION

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

SCCHA Policy

It is the mission of the SCCHA to provide well-maintained and safe assisted housing to the eligible low-income residents of St. Clair County. SCCHA is committed to assisting residents in meeting their personal development goals, especially those related to achieving economic self-sufficiency and those related to senior citizens maintaining an independent lifestyle. SCCHA is committed to providing its services in an efficient, economical, and legally responsible manner.

1-I.D. THE SCCHA'S PROGRAMS

The SCCHA's Administrative Plan is applicable to the operation of the Section 8 Housing Choice Voucher Program, including project-based vouchers and the four special-purpose programs that SCCHA inherited when the HCVPs of the Housing Authority of the City of East St. Louis and SCCHA were merged (10/1/2013) ---Family Unification Program (FUP), Tenant Protection (TP), Home Ownership (HO) and Family Self-Sufficiency (FSS). In 2021 SCCHA was allocated Emergency Housing Vouchers under the federal American Rescue Plan. All of these programs shall be administered in accordance with this Administrative Plan (AP), federal statute, and HUD regulations. In the event of conflict, federal statute and HUD regulation shall prevail. Administration of the FUP is further governed by the Memorandum of Understanding executed between SCCHA and the Illinois Department of Children and Family Services (IDCFS). Administration of the FSS Program is additionally governed by the FSS Program Action Plan.

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

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

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

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

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

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

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

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

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

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences

between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

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

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

1-II.B. HCV PROGRAM BASICS

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

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

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

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

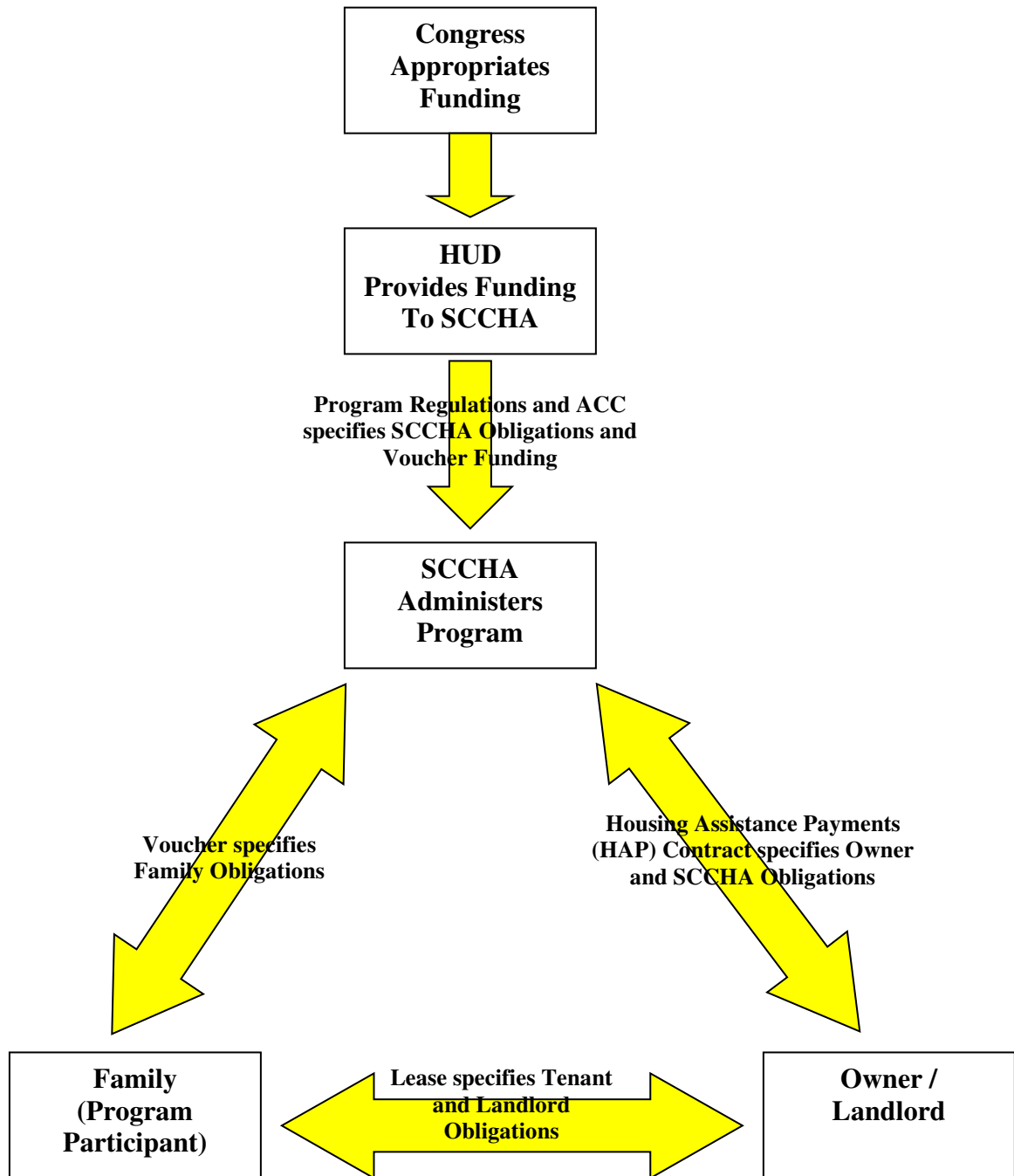
1-II.C. THE HCV PARTNERSHIPS

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

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

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

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

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

What does the SCCHA do?

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

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

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
 - The SCCHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
 - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful

enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

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

What does the Family do?

The family has the following responsibilities:

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

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

PART III: THE HCV ADMINISTRATIVE PLAN

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

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

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

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

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

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

HUD regulations contain a list of what must be included in the Administrative Plan. The SCCHA Administrative Plan must cover SCCHA policies on these subjects:

- Selection and admission of applicants from the SCCHA waiting list, including any SCCHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the SCCHA waiting list (Chapter 4);
- Issuing or denying vouchers, including SCCHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the SCCHA decides to allow extensions or suspensions of the voucher term, the SCCHA Administrative Plan must describe how the SCCHA determines whether to grant extensions or suspensions, and how the SCCHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the SCCHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);

- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the SCCCHA of amounts the family owes the SCCCHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to change the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- SCCCHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects SCCCHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the SCCCHA has adopted. The SCCCHA's Administrative Plan is the foundation of those policies and procedures. HUD's directions require

SCCHA to make policy choices that provide guidance to staff and consistency to program applicants and participants.

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

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

SCCHA Policy

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the SCCHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD and DOJ's Notice of Guidance, published December 19, 2003 in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require SCCHA to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The SCCHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

SCCHA Policy

SCCHA shall comply with all federal, state, and local non-discrimination laws and/or ordinances.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as SCCHA policies, can prohibit discrimination against additional classes of people.

The SCCHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

SCCHA Policy

The SCCHA will not discriminate on the basis of marital status or sexual orientation.

The SCCHA will not use any of these factors to:

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

Providing Information to Families and Owners

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

Discrimination Complaints

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

SCCHA Policy

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

The SCCHA will attempt to remedy discrimination complaints made against the SCCHA.

The SCCHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

2.I.C EQUAL ACCESS

The St. Clair County Housing Authority (SCCHA) operates its Section 8 Housing Choice Voucher Program (HCVP) [and all other programs] in a manner that is in compliance with HUD's Final Rule dated 2/3/12 and entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity." As such, SCCHA shall make all determinations of eligibility for its HCVP (and all other programs) in accordance with the eligibility requirements provided by HUD and those contained herein. Housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

SCCHA shall not inquire about the sexual orientation or gender identity of an applicant for, or participant in, its HCVP for the purpose of determining eligibility or otherwise making HCVP assistance available. This does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This policy does not prohibit lawful inquiries of an applicant or occupant's sex for the purpose of determining the number of bedrooms to which a household may be entitled.

If an applicant for or occupant of SCCHA's HCVP believes that SCCHA has violated the equal access rule, they are to file a written complaint with SCCHA's designated Equal Access Compliance Officer (more commonly known as SCCHA's Administrative Director) unless they are a person with a disability that prohibits the submission of a written complaint. In such a case, the disabled complainant may make his / her complaint known to the Compliance Officer in any reasonable manner available to him or her. The complaint must be filed timely, defined as within ten (10) days of the alleged violation. Complaints received after ten (10) days of the occurrence of the alleged violation shall not be acted upon.

Upon receipt of a timely complaint from an applicant or occupant alleging a violation of the equal access rule, SCCHA shall conduct an internal investigation to determine if a program violation occurred and implement appropriate corrective action(s), as determined necessary. The staff person(s) alleged to have violated the equal access rule shall be notified in writing that a complaint was received and shall be provided an opportunity to respond. The complainant shall be notified in writing that the person(s) alleged to have violated the equal access rule was notified in writing of the complaint.

After investigating the complaint, the SCCHA shall provide the complainant and those alleged to have violated the rule with the findings from the investigation, and a proposed corrective action or explanation as to why corrective action is not required. SCCHA shall keep records of all such complaints, investigations, notices and corrective actions consistent with its record retention policy and/or other applicable record-keeping obligations.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

SCCHA Policy

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

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

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the SCCHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the SCCHA range) if the SCCHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit

- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with SCCHA staff
- Displaying posters and other housing information in locations throughout the SCCHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the SCCHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

SCCHA Policy

The SCCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the SCCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

When verifying a disability, the SCCHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the

confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The SCCHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The SCCHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

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

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the SCCHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

SCCHA Policy

After a request for an accommodation is presented, the SCCHA will respond, in writing, within 10 business days.

If the SCCHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the SCCHA's operations), the SCCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs

without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the SCCHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the SCCHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

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

HUD regulations require the SCCHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the SCCHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the SCCHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

SCCHA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

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

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

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

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This plan describes the key policies that govern the SCCHA's responsibilities with regard to physical accessibility.

- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The SCCHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

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

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

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

2-III.B. ORAL INTERPRETATION

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

SCCHA Policy

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

Where feasible, the SCCHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the SCCHA 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 the SCCHA. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

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

SCCHA Policy

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

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

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the SCCHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

SCCHA Policy

If it is determined that the SCCHA serves very few LEP persons, and the SCCHA has very limited resources, the SCCHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the SCCHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
 - Qualify as a family as defined by HUD and the SCCHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for family members as required.
 - Consent to the SCCHA's collection and use of family information as provided for in SCCHA-provided consent forms.
- The SCCHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the SCCHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and SCCHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the SCCHA to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13]

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

Family

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status (Revised 5-01-2012); a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. The SCCHA has the discretion to determine if any other group of persons qualifies as a family.

SCCHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

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

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

Family Break-up [24 CFR 982.315]

The SCCHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the SCCHA is bound by the court's determination of which family members continue to receive assistance.

SCCHA Policy

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

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

In the absence of a judicial decision, or an agreement among the original family members, the SCCCHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) who was originally established as “head of household, (2) the interest of any minor children, including custody arrangements, (3) the interest of any ill, elderly, or disabled family members, (4) any possible risks to family members as a result of domestic violence or criminal activity, and (5) the recommendations of social service professionals.

Admission preferences will be updated to reflect the continued applicability to the household members retaining rights to the original application. Admission preferences shall be assigned as appropriate to any new application submitted as a result of a family break-up.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

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

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

SCCHA Policy

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

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

SCCHA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who

are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

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

SCCHA Policy

Minors who are emancipated under state law may be designated as a cohead.

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

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

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

SCCHA Policy

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

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

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

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

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

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

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

Persons with Disabilities

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

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

Disabled Family

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

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

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

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent (e.g. head, co-head, or spouse)

SCCHA Policy

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period, provided such visitation does not violate lease provisions and/or local housing ordinance.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above. A copy of the joint custody arrangement must be on file with SCCHA.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An

exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return. The landlord must also consent to an extended guest stay. Failure of the family to obtain proper approvals for extended guest stay in advance is considered a material violation of family obligations and is sufficient grounds for termination of benefits.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. Foster care payments received by the head of the household (or other adult member) are not counted in family annual income, and foster children / adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13]. Other income of a foster child / adult, specifically including but not necessarily limited to SSD and/or SSI benefits, is counted in family income.

SCCHA Policy

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401 and/or local housing codes and with the consent of the landlord. SCCHA will not increase the subsidy standard (i.e. the number of bedrooms on the voucher) for the sole purpose of accommodating additional foster children.

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

SCCHA Policy

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

(A) Absent Students

SCCHA Policy

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

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

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

SCCHA Policy

If a child has been placed in foster care, the SCCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

(C) Absent Head, Spouse, or Cohead

SCCHA Policy

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

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

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

SCCHA Policy

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

Return of Permanently Absent Family Members

SCCHA Policy

The family must request SCCHA approval for the return of any adult family members that the SCCHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter, and SCCHA's decision may be impacted by current program funding levels.

3-I.M. LIVE-IN AIDE

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

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

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

SCCHA Policy

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

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

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

- The person commits or has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- The person commits or has committed drug-related criminal activity, violent criminal activity, or other serious and or repeated criminal activity; or

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

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

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size, or the federal poverty line.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

SCCHA Policy

The SCCHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the SCCHA.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the SCCHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the SCCHA plan and the consolidated plans for local governments within the SCCHA's jurisdiction.

SCCHA Policy

The SCCHA has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR 982.201]

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

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the SCCHA to request additional documentation of their status, such as a passport.

SCCHA Policy

Documentation of Citizenship or national status will be required of all family members.

Eligible Noncitizens

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

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

Ineligible Noncitizens

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

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

Mixed Families

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

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

A SCCHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the SCCHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the SCCHA in accordance with program requirements [24 CFR 5.512(a)].

SCCHA Policy

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

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

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

Informal hearing procedures are contained in Chapter 16.

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

For person(s) wanting to join an assisted family, the SCCHA must verify status at an interim or regular reexamination within 90 days of the assisted family's request to add the individual as a household member.

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

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

SCCHA Policy

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

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

Applicant and participants (including each member of the household and including live-in aides, foster children, and foster adults) (Revised 5-01-2012) must provide documentation of a valid Social Security Number (SSN). Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the family, the new member's SSN documentation must be submitted in conjunction with the recertification completed to add the family member. If any member of the household obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

The SCCHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216., unless exempted by said regulations (Revised 5-01-2012).

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

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06]

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

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

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

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the SCCHA will rely on the following definitions [FR 4/10/06, p. 18148].

Dependent Child

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

Independent Student

SCCHA Policy

The SCCHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

The individual is of legal contract age under state law.

The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

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

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

Be a veteran of the U.S. Armed Forces

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

Be a graduate or professional student

Be married

The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The SCCHA will verify that a student meets the above criteria in accordance with the policies in Section 7-IE.G.

Institution of Higher Education

The SCCHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

Parents

SCCHA Policy

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

Veteran

SCCHA Policy

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

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the SCCHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the SCCHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

SCCHA Policy

For any student who is subject to the 5.612 restrictions, the SCCHA will:

Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

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

Determining Parental Income Eligibility

SCCHA Policy

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

If the student's parents are married and living together, the SCCHA will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, the SCCHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, the SCCHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the SCCHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The SCCHA will then obtain an income declaration and

certification of income from the parent with whom the student has been living or had contact.

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

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

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

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

Denial of assistance includes any of the following:

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

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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

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

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

HUD requires the SCCHA to deny assistance in the following cases:

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

SCCHA Policy

The SCCHA will not admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity

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

SCCHA Policy

Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

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

SCCHA Policy

In determining reasonable cause, the SCCHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The SCCHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

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

HUD permits, but does not require, the SCCHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the SCCHA to deny assistance if the SCCHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

SCCHA Policy

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

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

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to

cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or other persons; or other persons, specifically including, but not limited to being a registered sex offender.

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

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

- Any conviction for drug-related or violent criminal activity within the past 5 years.

- Any arrests for drug-related or violent criminal activity within the past 5 years.

- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, [the PHA or owner] may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.

Applicants or applicant household members with any outstanding criminal warrants at the time the application is being screened for eligibility shall be given up to ninety (90) days to clear the warrant. If the warrant is not cleared within ninety (90) days SCCHA will deny the applicant. The applicant may be denied without the opportunity to clear the warrant if the underlying criminal offense resulting in the warrant would result in denial.

Applicants or applicant household members with open felony criminal cases shall be granted up to ninety (90) days to have the case adjudicated. If the case is not adjudicated within ninety (90) days, the applicant will be denied. If the case is subsequently adjudicated within twelve (12) months of denial without conviction or guilty plea by the applicant (or other household member), upon the written request of the applicant, the applicant will be reinstated at the initial eligibility screening stage.

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

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

SCCHA Policy

The SCCHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

The SCCHA **will** deny assistance to an applicant family if:

Any family member has been evicted from federally-assisted housing in the last five years.

Any SCCHA has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation, public housing programs, or other federally assisted housing program unless the family repays the full amount of the debt prior to being selected from the waiting list.

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

The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

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

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

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

Other

The SCCHA **will** deny assistance to an applicant family if:

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

The family does not provide complete and true information to the SCCHA.

The family provides different and/or inconsistent information related to household income, family composition, place of residence, and/or any other material or significant information needed to accurately determine benefit / assistance levels to SCCHA and other local, State and/or federal entities.

3-III.D. SCREENING

Screening for Eligibility

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

SCCHA Policy

The SCCHA will perform a criminal background check through local law enforcement for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the SCCHA will request a fingerprint card and will request information from the National Crime Information center (NCIC) or authorized provider of such information (e.g. state police).

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

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

Screening for Suitability as a Tenant [24 CFR 982.307]

The SCCHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The SCCHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

SCCHA Policy

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

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

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

information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

SCCHA Policy

The SCCHA 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 initial HQS inspection or before. The SCCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc. unless requested to do so in writing and with the written consent of the participant.

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

Evidence [24 CFR 982.553(c)]

SCCHA Policy

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

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

SCCHA Policy

The SCCHA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents

- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure

- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking

- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

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

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

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

SCCHA Policy

SCCHA is not obligated to offer an applicant family the opportunity to remove a culpable family member and may deny admission to the family outright. At its discretion, SCCHA may provide an applicant family the opportunity as a condition of receiving assistance, to agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon SCCHA request.

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

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

SCCHA Policy

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

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

SCCHA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

If SCCHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the SCCHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The SCCHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

SCCHA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the SCCHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the SCCHA to dispute the information within that 10-day period, the SCCHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

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

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

The Violence Against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(1) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

Definitions

As used in VAWA:

- 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 cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

- The term *immediate family member* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

Notification and Victim Documentation

SCCHA Policy

The SCCHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under the SCCHA's policies. Therefore, if the SCCHA makes a determination to deny admission to an applicant family, the SCCHA will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One of the following:

A police or court record documenting the actual or threatened abuse, or

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

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, the SCCHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the SCCHA determines the family is eligible for assistance, no informal review will be scheduled and the SCCHA will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

SCCHA Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the SCCHA will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant

household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

SCCHA Confidentiality Requirements

All information provided to the SCCHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

3-III.H. REAPPLYING AFTER DENIAL

Applicants denied admission to the Section 8 HCVP for cause as outlined herein shall not be eligible to re-apply for a minimum period of one year. The one year period may be waived, shortened or extended by determinations made through the informal review and/or grievance process on a case by case basis.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General

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

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and Young Children

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

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

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

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

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

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

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION
[20 U.S.C. 1001 and 1002]

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

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

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

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of Chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that
 - (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) Is a public or other nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of Chapter 34 of Title 42, the term “institution of higher education” also includes—
 - (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
 - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

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

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

- (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of Chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—
 - (A) A proprietary institution of higher education (as defined in subsection (b) of this section);
 - (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
 - (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.
- (2) Institutions outside the United States
 - (A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—
 - (i) In the case of a graduate medical school located outside the United States—
 - (I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and
 - (bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or
 - (II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or
 - (ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution’s students complete their clinical training at an approved veterinary school located in the United States.
 - (B) Advisory panel

- (i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
 - (I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and
 - (II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.
 - (ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.
- (C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.
- (D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of Chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.
- (3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—
- (A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;
 - (B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;
 - (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or
 - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the

limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

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

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

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

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

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

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term "proprietary institution of higher education" means a school that—

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

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

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

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

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

(F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of

Chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

- (2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) Postsecondary vocational institution.
- (1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—
 - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
 - (C) Has been in existence for at least 2 years.
 - (2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4

APPLICATIONS, WAITING LIST, AND TENANT SELECTION

INTRODUCTION

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

The SCCHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the SCCHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the SCCHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the SCCHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

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

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

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

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

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

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

SCCHA Policy

A two-step application process will be used because it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the SCCHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families may obtain application forms from the SCCHA's office during normal business hours. Families may also request (by telephone or by mail) that a form be sent to the family via first class mail. Families may also obtain an application form via the internet at the SCCHA website, www.sccha.org.

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

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

of the SCCCHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

SCCHA is required to take reasonable steps to ensure meaningful access to its programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the SCCCHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

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

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

Ineligible for Placement on the Waiting List

SCCHA Policy

If the SCCCHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the SCCCHA will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

SCCHA Policy

The SCCCHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete application.

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

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

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The SCCHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how SCCHA may structure its waiting list and how families must be treated if they apply for assistance for more than one assisted housing program.

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

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

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

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

HUD requires the SCCHA to maintain a single waiting list for the HCV program.

SCCHA Policy

The SCCHA will maintain a single waiting list for the HCV program.

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

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

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

SCCHA Policy

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

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

Closing the Waiting List

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

SCCHA Policy

The SCCHA may close the waiting list when the estimated waiting period for housing assistance for applicants on the list with 13 or more preference points reaches 24 months or longer. Since SCCHA has particular preferences or funding criteria that require a specific category of family, the SCCHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the SCCHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

SCCHA Policy

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

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

Belleville News Democrat

East St. Louis Monitor

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

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

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

SCCHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program

- Avoiding outreach efforts that prefer or exclude people who are members of a protected class
- SCCHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

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

SCCHA Policy

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

SCCHA Policy

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

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

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

Purging the Waiting List

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

SCCHA Policy

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

To update the waiting list, the SCCHA will send an update notice via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the SCCHA has on record for the family. The update request will provide a deadline by

which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the SCCHA not later than 15 business days from the date of the SCCHA letter or longer period when determined appropriate by SCCHA.

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

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

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

If a family is removed from the waiting list for failure to respond, a departmental supervisor may reinstate the family if it is determined the lack of response was due to SCCHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

SCCHA Policy

If at any time an applicant family is on the waiting list, the SCCHA determines that the family is not eligible for assistance (see Chapter 3); the family will be removed from the waiting list.

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

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

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

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the SCCHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The SCCHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a SCCHA funding for a specified category of families on the waiting list. The SCCHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

SCCHA Policy

The SCCHA does not currently administer any type of targeted funding.

Regular HCV Funding

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

4-III.C. SELECTION METHOD

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

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

SCCHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the SCCHA to establish other local preferences, at its discretion.

Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

SCCHA Policy

10 point preference to any family that has been terminated from its HCV program due to **insufficient program funding**. This preference is granted to families whose vouchers were withdrawn/rescinded due to lack of funds.

10 point preference to any family that qualifies on the basis of **Self-Sufficiency re-admission**. This preference is granted to a family that experiences a decrease in household income (due to factors beyond their control) after having been terminated in good standing from its HCV program (within the last 6 months) due to an increase in household income that caused **tenant rent** to equal or exceed **contract rent**. This preference is also granted to elderly or disabled families who had to give up their voucher due to placement in a medical institution. The six month readmission provision also applies to elderly and/or disabled families.

7 point preference to any family eligible for **Inter-Program Transfer/Accommodation** --- transfers between public housing and/or other federally assisted properties owned/managed by SCCHA and/or another PHA/Owner due to identifiable need that can not be adequately accommodated within the constraints of the program under which the participant is currently being assisted or other circumstances as approved by the executive director. Public housing households participating in the Family Self-Sufficiency Program may be awarded this preference at the sole discretion of SCCHA, upon obtainment of substantial progress toward meeting individual goals as specified in the Contract of Participation and Individual Training and Service Plan (ITSP) and with the recommendation of the FSS Coordinator, the Department Director(s), and the Executive Director.

This preference may be granted to applicants who are “ready, able and want to” move on from the local (St. Clair County) permanent supportive housing (PSH) program. The determination of “ready, able and want to” is made in written form by the PSH Program Coordinator / Director. This preference is limited to a maximum of twelve (12) PSH Program applicants during any calendar year.

This preference may be granted to applicants with a disability who are “ready, able and want to” move on from a nursing home or other assisted living facility / arrangement and receiving case management services through LINC, Inc. (Living Independently Now Center). The determination of “ready, able and want to” is made in written form by the Linc, Inc. Executive Director (or designee). This preference is limited to a maximum of twelve (12) referrals during any calendar year.

This preference may be granted to applicants who are participating in a training or employment program administered by the St. Clair County Intergovernmental Grants Department (IGD) under the Workforce Innovation and Opportunity Act (or “WIAO”) and whose success in the program is determined to be threatened by the lack of stable and affordable housing. Admissions are limited to a maximum of twelve (12) months.

10 point preference for any family that qualifies for a **Jurisdictional Preference** because the family resides, is employed or has a written offer for employment in St. Clair County. If the applicant is currently in a shelter located outside of St. Clair County or declare himself/herself to be homeless but can document eligibility for the jurisdiction preference based upon immediate prior residency, the applicant is entitled to the jurisdiction preference for up to 12 months from the end of residency in the jurisdiction.

2 point preference to any family for **Employment Preference**. Preference is granted if the head of household, spouse or co-head is employed, has a disability, or is a senior citizen age sixty-two (62) or older. To be eligible for employment preference the qualifying member must have worked as average of 10 hours per week for a minimum period of three months. To qualify on the basis of disability the definition/criteria used by HUD to determine if a household is considered “disabled” is used (Chapter 3). (Revised 5-01-2012)

1 point preference to any family that has an **Unmet Housing Need**. This preference is available to applicants who have an unmet housing need. To qualify for this preference the applicant must demonstrate an unmet housing need related to: a) rent burden (paying more than 50% of household income toward housing cost); b) overcrowded living conditions; c) substandard living conditions; d) displacement due to government action, natural disaster, foreclosure, and other verifiable circumstances; e) inability to afford independent housing resulting in the need to remain in the parent’s home or the home of another family; f) homelessness or near homelessness (as defined by federal guidelines); g) residing in a shelter or transitional housing arrangement; h) other verifiable / documentable condition that substantiates an unmet housing need.

1 point preference to any family that qualifies as a **Veteran**. Preference is awarded only to applicants who are a veteran or survivor of a veteran who actively served in a branch of the United States Armed Services. The term survivor includes the spouse or widow (unless remarried) of a veteran. To receive this preference the veteran’s military service must not have concluded on a negative basis (i.e. dishonorable discharge, bad conduct discharge, etc.).

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

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the SCCHA’s fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, SCCHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low income families admitted to the program that are “continuously assisted” under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

SCCHA Policy

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

Order of Selection

The SCCHA will determine applicant order of selection using an established system of preferences according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list, SCCHA is required to use targeted funding to assist only those families who meet the specified criteria. SCCHA is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

SCCHA Policy

So long as the required income targeting requirements are met, families will be selected from the waiting list based on the highest preference point order. When there is a tie in the number of preference points, families will be selected on a first-come, first-served

basis according to the date and time their complete application is received by the SCCHA. Documentation will be maintained by the SCCHA as to whether families on the list qualify for and are interested in targeted funding (e.g. project-based vouchers). If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the SCCHA does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the SCCHA must notify the family.

SCCHA Policy

The SCCHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Other documents and information that should be brought to the interview

If a notification letter is returned to the SCCHA with no forwarding address, the family will be removed from the waiting list with no further notice. If the notification letter is returned with a forwarding address, the notice will be mailed again to the address indicated.

If a family is removed from the waiting list for failure to respond, the department supervisor/director may reinstate the family if it is determined the lack of response was due to staff error or to circumstance beyond the family's control or with mitigating circumstances.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the SCCHA obtain the information and documentation needed to make an eligibility determination through a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

SCCHA Policy

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

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

The interview will be conducted only if the head of household or spouse/co head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the SCCHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within

the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the SCCHA will provide translation services in accordance with the SCCHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the SCCHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the SCCHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without SCCHA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

The SCCHA must verify all information provided by the family (see Chapter 7). Based on verified information, the SCCHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

SCCHA Policy

If the SCCHA determines that the family is ineligible, the SCCHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income preference), the family will be returned to the waiting list with the original date/time of application and the appropriate preference). The SCCHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

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

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the SCCHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, the SCCHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on the SCCHA's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

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

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the SCCHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

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

The SCCHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the SCCHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

SCCHA Policy

Briefings will be conducted in group meetings.

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

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

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

Notification and Attendance

SCCHA Policy

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

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

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

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works
- Family and owner responsibilities
- Where the family can lease a unit, including renting a unit inside or outside the SCCHA's jurisdiction
- For families eligible under portability, an explanation of portability. The SCCHA cannot discourage eligible families from moving under portability (the exception being the requirement to lease up in the jurisdiction for one year upon initial receipt of a voucher when pulled from the waiting list)
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and the SCCHA's policies on any extensions or suspensions of the term. If the SCCHA allows extensions, the packet must explain how the family can request an extension
- A description of the method used to calculate the housing assistance payment for a family, including how the SCCHA determines the payment standard for a family, how the SCCHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule
- An explanation of how the SCCHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the SCCHA jurisdiction under portability procedures, the information must include an explanation of how portability works
- The HUD-required tenancy addendum, which must be included in the lease
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy
- A statement of the SCCHA policy on providing information about families to prospective owners
- The SCCHA subsidy standards including when and how exceptions are made.
- The HUD booklet on how to select a unit entitled *A Good Place to Live!*
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*

- Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the SCCHA
- The family obligations under the program, including any obligations related to selection preferences requested by and assigned to the family
- The grounds on which the SCCHA may terminate assistance for a participant family because of family action or failure to act
- SCCHA informal hearing procedures including when the SCCHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing

If the SCCHA is located in a metropolitan FMR area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, SCCHA may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

SCCHA Policy

The SCCHA will provide the following additional materials in the briefing packet:

- Information on how to fill out and file a housing discrimination complaint form
- The publication entitled Things You Should Know (HUD-1140-OIG) that explains the types of actions a family must avoid and the penalties for program abuse
- HCVP Voucher (form HUD-52646)
- HCVP household information reporting requirements
- Tenant certification of participation in briefing session

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as

well as prohibited actions. The SCCHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

SCCHA Policy

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

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

Family Obligations [24 CFR 982.551]

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

- The family must supply any information that the SCCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the SCCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

SCCHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit. If the amount of unpaid rent, unpaid utilities for which the owner can be held liable, and damages that exceeds the security deposit, the tenant shall be required to pay the owner to remain eligible for continued assistance. For the tenant to be held accountable for amounts due above the security deposit, the charges must be documented and determined reasonable and customary. Determination may be made by SCCHA staff, but the owner may also be required to obtain a court ordered judgment as a basis for terminating a family's assistance.

- The family must allow the SCCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

- The family must not commit any serious or repeated violation of the lease.

SCCHA Policy

The SCCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the SCCHA and the owner before moving out of the unit or terminating the lease.

SCCHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the SCCHA at the same time the owner is notified.

- The family must promptly give the SCCHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the SCCHA. The family must promptly notify the SCCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request SCCHA approval to add any other family member as an occupant of the unit.

SCCHA Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The SCCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the SCCHA in writing if any family member no longer lives in the unit. Documentation of residency at a location other than the assisted unit shall be required for adult members being removed. The removal of minor children shall be documented by court approved custody/guardianship papers.
- If the SCCHA has given approval, a foster child or a live-in aide may reside in the unit. The SCCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when SCCHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, transfer the unit, or allow any person other than those listed as a family member to reside in the unit.

SCCHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the SCCHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the SCCHA when the family is absent from the unit.

SCCHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the SCCHA no later than the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and/or the general public. See Chapter 12 for HUD and SCCHA policies related to drug-related and violent criminal activity.

SCCHA Policy

The resident and all adult household members have an affirmative obligation to fully cooperate with law enforcement officials during the investigation of suspected criminal activity occurring on or near the federally assisted unit and/or involving the resident, household members or other persons on the premises of the federally assisted unit.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of the other residents and/or the general public. See Chapter 12 for a discussion of HUD and SCCHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the SCCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

The SCCHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The SCCHA also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

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

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

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

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

SCCHA Policy

The SCCHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 6) will be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

The SCCHA will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	Persons in Household (Minimum – Maximum)
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6
4 Bedrooms	4-8
5 Bedrooms	6-10

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

SCCHA Policy

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

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

The SCCHA will notify the family of its determination within 10 business days of receiving the family's request with all appropriate/needed support documentation. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

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

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the SCCHA issues a Housing

Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the SCCHA has determined the family to be eligible for the program, and that the SCCHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the SCCHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the SCCHA's housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the SCCHA has determined that the family is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

SCCHA Policy

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

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

SCCHA Policy

Prior to issuing any vouchers, the SCCHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

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

5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

SCCHA Policy

The initial voucher term will be 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the specified 120 day period unless the SCCHA grants an extension.

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

The SCCHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the SCCHA can approve. Discretionary policies related to extension and expiration of search time must be described in the SCCHA's Administrative Plan [24 CFR 982.54].

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

The family must be notified in writing of the SCCHA's decision to approve or deny an extension. The SCCHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

SCCHA Policy

The SCCHA will consider approving an extension only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by the SCCHA. Following is a list of extenuating circumstances that the SCCHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family
- Other family emergency
- Obstacles due to employment
- Whether the family has already submitted requests for tenancy approval that were not approved by the SCCHA
- Whether family size or other special requirements make finding a unit difficult

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

All requests for extensions to the voucher term must be made in writing and submitted to the SCCHA no later than the expiration date of the voucher (or extended term of the voucher).

SCCHA will only in the most compelling of cases extend a voucher for longer than 60 days beyond the original voucher term (120 day, plus any "trolling" days accumulated while a RTA was being processed). This provides voucher holders 180 days, six-months, one-half of a year to utilize the voucher. If a voucher is not utilized within this extended time frame it is considered highly unlikely it will be utilized within any further extension.

The SCCHA will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will promptly provide the family written notice of its decision.

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

At its discretion, a SCCHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term.

“Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time the SCCHA approves or denies the request [24 CFR 982.4]. The SCCHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

SCCHA Policy

When a Request for Tenancy Approval and proposed lease is received by the SCCHA, the term of the voucher will be suspended while the SCCHA processes the request.

Expiration of Voucher Term

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the SCCHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

SCCHA Policy

If an applicant family’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), the SCCHA will require the family to reapply for assistance. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by the SCCHA (after the voucher term has expired), the family’s voucher will be extended for a period equal to the processing time of the RTA.

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

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the SCCHA's subsidy. The SCCHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and SCCHA policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and SCCHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the SCCHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and SCCHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and SCCHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining SCCHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; and
- (2) Are based on, at the time of admission, reexamination, or recertification:
 - (i) Actual income being received (projected forward for a 12-month period); or
 - (ii) Past actual income received or earned with the last 12 months of the determination date, as HUD may prescribe in applicable administrative instructions when:
 - (a) The family reports little or no income; and
 - (b) The processing entity is unable to determine annual income due to fluctuations in income (e.g., seasonal or cyclical income);
- (3) Which are not specifically excluded in paragraph (e) of the section.
- (4) Annual income also means amount derived (during the 12-month period) from assets to which any member of the family has access.
 - (i) Historical amounts. If the processing entity is unable to determine annual income using current information because the family reports little to no income or because income fluctuates, the processing entity may average past actual income received or earned within the last 12 months before the determination date to calculate annual income. The processing entity may also request the family to provide documentation of current income. If the family can provide acceptable documentation dated either within the 60-day period preceding the determination date or the 60-day period following the request date, the processing entity may use this documentation to determine annual income.
 - (ii) Rejection of documentation. The processing entity may reject any income documentation for such reason as HUD may prescribe in applicable administrative instructions.

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

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)

- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

SCCHA Policy

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

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

Absent Students

SCCHA Policy

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

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

SCCHA Policy

If a child has been placed in foster care, the SCCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

SCCHA Policy

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

Absences Related to Military Service

SCCHA Policy

If a family member joins the military, the individual shall continue to be recognized as a member of the household until such time as the Head of Household removes the member from the record, with SCCHA approval. As long as the individual remains a family member, his/her military income shall be included in the household income projection, unless specifically excluded by regulations (such as hostile pay) and arrangements must be made to obtain the member's signature on required certification documents. Documentation satisfactory to SCCHA is required to remove the household member upon request. Military enlistment / deployment / assignment records are generally satisfactory for the purpose of removing the member from the assisted household. Once removed, SCCHA is under no obligation to subsequently approve a request to add the individual back as a member of the assisted household.

Family Members Permanently Confined for Medical Reasons

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

SCCHA Policy

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

In making the determination whether or not the confined person remains a household member, SCCHA will take into consideration whether or not the confined person's income remains available to support the household.

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

Joint Custody of Dependents

SCCHA Policy

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

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

Caretakers for a Child

SCCHA Policy

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

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the SCCHA will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.
- (5) At any time that custody or legal guardianship has been awarded to a person other than the caretaker (even if the caretaker was determined to be a family member), the housing choice voucher will be transferred to the person(s) with custody/guardianship. The former caretaker shall have no right to a voucher once the role as caretaker has ended.
- (6) Allow up to 180 days for voucher eligibility in situations when the HAP stops because the assisted unit has been vacated and the custody/guardianship arrangements have not been determined.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

SCCHA Policy

When the SCCHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, *PRN or per diem employment arrangements* or suspected fraud), the SCCHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the SCCHA to show why the historic pattern does not represent the family’s anticipated income.

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving \$6/hour will begin to receive \$6.25/hour in the eighth week after the effective date of the reexamination. In such a case the SCCHA would calculate annual income as follows:
 $(\$6/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$6.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

Example: A tenant reports that he/she has accepted a new PRN or per diem employment assignment or reports transitioning from a permanent part or full time schedule to a PRN or per diem schedule. In order to best project the family’s annual income, the verification form sent to the employer shall include an anticipated rate of pay and approximate number of hours to be worked. If the employer is unable / unwilling to provide this specific information, an initial projection of annual earnings (made in conjunction with an initial certification or annual recertification) will not be completed and a previous income projection that included PRN or per diem earnings will not be recalculated ***until a new earnings pattern can be projected.***”

Using Up-Front Income Verification (UIV) to Project Income

HUD strongly recommends the use of up-front income verification (UIV). UIV is “the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals” [VG, p. 7].

HUD allows SCCHA to use UIV information in conjunction with family-provided documents to anticipate income [UIV].

SCCHA Policy

SCCHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the SCCHA interview date.

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

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

If the UIV figure is less than the family’s figure, the SCCHA will use the family’s information.

If the UIV figure is more than the family’s figure, the SCCHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the SCCHA will use the family-provided information.

Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the SCCHA will follow these guidelines:

The SCCHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

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

The SCCHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

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

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

SCCHA Policy

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

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

This type of income (including gifts) is not included in annual income.

SCCHA Policy

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

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

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

Income Earned under Certain Federal Programs

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

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

Resident Service Stipend

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

State and Local Employment Training Programs

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

SCCHA Policy

The SCCCHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

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

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

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

HUD-Funded Training Programs

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

SCCHA Policy

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

Earned Income Tax Credit

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

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

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

Eligibility

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

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

SCCHA Policy

The SCCHA defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion

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

SCCHA Policy

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

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

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

SCCHA Policy

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

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

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

Business Expenses

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

SCCHA Policy

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

Business Expansion

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

SCCHA Policy

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

Capital Indebtedness

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

SCCHA Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

SCCHA Policy

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

Co-owned Businesses

SCCHA Policy

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

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

Overview

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

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

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and SCCHA policies related to each type of asset.

General Policies

Income from Assets

The SCCHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the SCCHA to use other than current circumstances to anticipate income when (1) an imminent

change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the SCCHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the SCCHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

SCCHA Policy

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

Valuing Assets

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

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

SCCHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

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

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

When net family assets are \$5,000 or less, the SCCHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the SCCHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current SCCHA-established passbook savings rate, which is based upon the national savings rate. The national savings rate can be found at <http://www.fdic.gov/regulations/resources/rates/>. SCCHA may establish the passbook savings rate anywhere within three-quarter of a percent of the national average. SCCHA shall review and establish the rate at least annually.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

SCCHA Policy

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

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

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

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

Minimum Threshold

The *HVC Guidebook* permits the SCCHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

SCCHA Policy

The SCCHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

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

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

Separation or Divorce

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

SCCHA Policy

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

Foreclosure or Bankruptcy

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

Family Declaration

SCCHA Policy

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

Types of Assets

Checking and Savings Accounts

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

SCCHA Policy

In determining the value of a checking account, the SCCHA will use the average monthly balance for the last six months.

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

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

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

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

SCCHA Policy

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

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

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

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

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

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

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

the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

SCCHA Policy

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

Trusts

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

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

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

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the SCCHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

SCCHA Policy

In determining the value of personal property held as an investment, the SCCHA will use the family's estimate of the value. The SCCHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but will not be charged any costs related to the appraisal.

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

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

SCCHA Policy

Necessary personal property consists of only those items not held as an investment and may include clothing, furniture, household furnishings, jewelry, and vehicles (including those specially equipped for persons with disabilities).

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

SCCHA Policy

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

Periodic Payments Excluded from Annual Income

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

SCCHA Policy

The SCCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].
Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].
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6-I.I. PAYMENTS IN LIEU OF EARNINGS

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

6-I.J. WELFARE ASSISTANCE

Overview

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

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

The SCCHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

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

Imputed Income

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

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

Offsets

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

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

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

Alimony and Child Support

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

SCCHA Policy

The SCCHA will count court-awarded amounts for alimony and child support unless the SCCHA verifies that: (1) the payments are not being made, **and** (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Regular Contributions or Gifts

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

SCCHA Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

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

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

In 2005, Congress passed a law (for section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance **on their own**—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the SCCHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

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

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

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

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
 - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
 - (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
 - (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
 - (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
 - (j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
 - (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
 - (l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spinal bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

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

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

SCCHA Policy

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

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

6-II.B. DEPENDENT DEDUCTION

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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

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

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

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

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

SCCHA Policy

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

SCCHA Policy

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

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

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

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

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

SCCHA Policy

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

When the SCCHA determines that the disability assistance expense enables more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

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

Eligible Auxiliary Apparatus

SCCHA Policy

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

Eligible Attendant Care

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

SCCHA Policy

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

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

SCCHA Policy

The SCCHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the SCCHA will collect information from organizations that provide services and support to persons with

disabilities. A family may present, and the SCCHA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

SCCHA Policy

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

SCCHA Policy

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

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

Seeking Work

SCCHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the

family member's job search efforts are not commensurate with the child care expense being allowed by the SCCHA.

Furthering Education

SCCHA Policy

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

Being Gainfully Employed

SCCHA Policy

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

Earned Income Limit on Child Care Expense Deduction

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

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

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

The SCCHA will not limit the deduction to the least expensive type of child care (e.g. in-home, day care facility, etc). If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

SCCHA Policy

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

Eligible Child Care Expenses

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

Allowable Child Care Activities

SCCHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

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

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

Necessary and Reasonable Costs

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

SCCHA Policy

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

To establish the reasonableness of child care costs, the SCCHA will use the schedule of child care costs from the local welfare agency. Families may present, and the SCCHA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND SCCHA SUBSIDY

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

TTP Formula [24 CFR 5.628]

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

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

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

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

Welfare Rent [24 CFR 5.628]

SCCHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

SCCHA Policy

The minimum rent for this locality is \$50.

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

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the SCCHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the SCCHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

SCCHA Subsidy [24 CFR 982.505(b)]

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

Utility Reimbursement [24 CFR 982.514(b)]

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

SCCHA Policy

The SCCHA reserves the right to make all utility reimbursement payments to participating families in the form of electronic transfer of funds (commonly referred to as “ACH”) to the family’s checking, saving, or debit account.

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

SCCHA Policy

The financial hardship rules described below apply in this jurisdiction because the SCCHA has established a minimum rent of \$50.

Overview

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

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

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

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

SCCHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family’s ability to pay the minimum rent.

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

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

SCCHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family’s failure to pay rent to the owner or tenant-paid utilities.

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

(4) A death has occurred in the family.

SCCHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the SCCHA.

SCCHA Policy

The SCCHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

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

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

SCCHA Policy

The SCCHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

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

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

SCCHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The SCCHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

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

SCCHA Policy

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

Temporary Hardship

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

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the SCCHA the amounts suspended. HUD requires the SCCHA to offer a reasonable repayment agreement, on terms and conditions established by the SCCHA. The SCCHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

SCCHA Policy

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

Long-Term Hardship

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

SCCHA Policy

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

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

the family receives at least \$60/month in income from another source or once again begins to receive the child support.

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

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

Overview

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

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

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

If the SCCHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the SCCHA must use the appropriate payment standard for the exception area.

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

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

Changes in Payment Standards

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

Decreases

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

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

Step 2: The SCCHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard

used by the SCCHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The SCCHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

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

Increases

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

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

Changes in Family Unit Size

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

Reasonable Accommodation

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

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

Overview

A SCCHA-established utility allowance schedule is used in determining family share and SCCHA subsidy. The SCCHA must use the appropriate utility allowance for the voucher unit size (i.e. number of bedrooms) which the family qualifies using SCCHA subsidy standards rather than the actual size of the dwelling unit (number of bedrooms) actually leased by a family. See Chapter 5 for information on the SCCHA's subsidy standards.

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

Reasonable Accommodation

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

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

Utility Allowance Revisions

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

SCCHA Policy

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

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

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

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property.

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

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

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

(6) Welfare assistance payments.

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

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and

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

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

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

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

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

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

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

**45 CFR: GENERAL TEMPORARY
ASSISTANCE FOR NEEDY FAMILIES**

260.31 What does the term "assistance" mean?

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

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

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

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

¹ Text of 45 CFR 260.31 follows.

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

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

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

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

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

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

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

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

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

(13) [Reserved]

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

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

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

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

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

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

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

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

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

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

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

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

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

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

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

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

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

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

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

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

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

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

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

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

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

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

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

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

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

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

(c) Disallowance of increase in annual income—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

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

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

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

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

Specified welfare benefit reduction.

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

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

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

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

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

(c) Imputed welfare income.

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

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

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

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

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

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the

basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

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

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

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

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

INTRODUCTION

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

The SCCHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary SCCHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

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

SCCHA reserves the right to determine the final acceptability of any third party, client provided or other form of verification received for the intended purpose.

PART I: GENERAL VERIFICATION REQUIREMENTS

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

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

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

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

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the SCCHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the SCCHA to use the most reliable form of verification that is available and to document the reasons when the SCCHA uses a lesser form of verification.

SCCHA Policy

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

Up-front Income Verification (UIV) whenever available

Third party written verification

Third party oral verification

Review of Documents

Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

SCCHA Policy

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

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

Print-outs from web pages are considered original documents.

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

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

File Documentation

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

SCCHA Policy

The SCCHA will document, in the family file, the following:

- Reported family annual income

- Value of assets

- Expenses related to deductions from annual income

- Other factors influencing the adjusted income or income-based rent determination

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

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

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

SCCHA has adopted “HUD Guidelines for Projecting Annual Income When Upfront Income Verification (UIV) Data is Available” as it appears in Exhibit #7-2. SCCHA has also adopted HUD’s UIV System Security Procedure as it appears in Exhibit #7-3 to ensure the proper handling and security of income data obtained through the UIV system.

SCCHA Policy

The SCCHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD’s EIV system (when it is available to the SCCHA)

- Welfare benefit information from the Illinois Department of Human Resources

- Other electronic verification sources as they become available to and accessible by SCCHA

The SCCHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD. See Reference Exhibit #7-3.

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

Definition of Substantial Difference

UIV information is used differently depending upon whether there is a **substantial difference** between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], states HUD recommends using \$200 per month as the threshold for a substantial difference. The SCCHA will therefore use \$200 per month as the threshold for a substantial difference.

See Chapter 6 for the SCCHA’s policy on the use of UIV to project annual income and for the SCCHA’s threshold for substantial difference.

When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV documentation may serve as third party written verification. For income projections, the higher amount will be used unless the higher amount is disputed by the participant in which case third-party verification shall be obtained (if available).

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the UIV source and the family, the SCCHA must request another form of third party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

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

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

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

Tenant Income Data (TID) Reports

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

SCCHA Policy

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

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

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

TID reports will be retained in participant files with the applicable annual or interim reexamination documents (as stated was permissible in HUD Headquarters' web cast on January 16, 2008).

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

Exceeds Threshold Reports (ETRs)

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

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

SCCHA Policy

The SCCHA will generate and review ETRs on a monthly basis. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.

In reviewing ETRs, the SCCHA will begin with the largest discrepancies.

When the SCCHA determines that a participant appearing on the ETR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from ETR processing until a subsequent interim or annual reexamination has been completed.

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

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

EIV Identity Verification

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

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

SCCHA Policy

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

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

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

Reasonable Effort and Timing

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

SCCHA Policy

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

The SCCHA may mail, fax, e-mail, or hand deliver third party written verification requests and will accept third-party responses using any of these methods. The SCCHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the SCCHA will as soon as possible thereafter request third party oral verification.

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

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

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

The timeframes specified are recognized as standard operating procedures. It is further recognized that there will be times when these time frames will not be met (e.g. periods of staff shortage, peak work loads, etc.).

When Third-Party Information is Late

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

When Third-Party Verification is Not Required

Primary Documents

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

Certain Assets and Expenses

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

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

SCCCHA Policy

The SCCCHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$1,000 annually **and** the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

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

SCCHA Policy

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

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

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

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

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

SCCHA Policy

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

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

7-I.F. SELF-CERTIFICATION

SCCHA Policy

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

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

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

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

SCCHA Policy

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Valid driver's license or Department of Motor Vehicles (state issued) identification card U.S. military discharge (DD 214) along with military identification card U.S. passport	Certificate of birth Adoption papers Custody agreement

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

Legal identity for adult family members will be verified at the start of each official contact.

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

For every family member age six (6) or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member eighteen (18) or older, or by a parent or guardian for a minor.

SCCHA Policy

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

Driver's license

Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

Payroll stubs

Benefit award letters from government agencies, retirement plans, or life insurance policies

Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

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

SCCHA Policy

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

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

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

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of six (6) and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

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

7-II.C. DOCUMENTATION OF AGE

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

SCCHA Policy

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

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

7-II.D. FAMILY RELATIONSHIPS

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

SCCHA Policy

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

Marriage

SCCHA Policy

Certification by the head of household along with documentation of the marriage is required.

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

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

Separation or Divorce

SCCHA Policy

Certification by the head of household along with documentation of the divorce, or separation is required.

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

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

If no court document is available, documentation from a community-based agency will be accepted. At its discretion, SCCHA may as last resort accept a self-declaration from the head of household when extenuating circumstances exist.

Absence of Adult Member

SCCHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g. documentation of another address at which the person resides such as a lease, utility bill, *occupancy permit or as a last resort and in circumstances determined appropriate by SCCHA staff a government issued photo identification*).

Foster Children and Foster Adults

SCCHA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

SCCHA Policy

The SCCHA requires families to provide information about the student status of all students who are eighteen (18) years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further his or her education.

The family includes a student enrolled in an **institution of higher education**.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

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

SCCHA Policy

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

- The student is enrolled at an educational institution that does not meet the definition of **institution of higher education** in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least twenty-four (24) years old.
- The student is a veteran, as defined in Section 3-IE.G.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-IE.G.

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

Independent Student

SCCHA Policy

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

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

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

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

7-II.F. DOCUMENTATION OF DISABILITY

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

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

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

Family Members Receiving SSA Disability Benefits

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

SCCHA Policy

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

Family Members Not Receiving SSA Disability Benefits

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

SCCHA Policy

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

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

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

U.S. Citizens and Nationals

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

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

SCCHA Policy

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

Eligible Immigrants

Documents Required

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been

granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-4 at the end of this chapter summarizes documents family members must provide.

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

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

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

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

The SCCHA must verify any preferences claimed by an applicant. Established preferences are discussed in Chapter 4-III.C.

SCCHA Policy

The SCCHA will verify the **Insufficient program funding reinstatement Preference** using the SCCHA's termination records.

The SCCHA will use participant file records (including updated income verifications) to verify the **Self-Sufficiency Readmission preference**.

Third-party verification(s) will be used to verify the **Inter-Program Transfer/Accommodation preference** (e.g. letter from physician or other medical professional, social worker, other federal housing program administrator, etc.).

Jurisdictional preference will be verified through written documents/statements such as a lease agreement, occupancy permit, utility bill, other legal documentation of residency, and employment verification (to verify in-jurisdiction employment and/or bona fide employment offer).

Employment will be verified through third-party verification from employer, if possible. In the alternative, original document/statement review will be used as verification.

The preference for **Unmet Housing Need** will be verified through third party written verification and/or document review (e.g. lease agreement, mortgage document, etc.) and/or other verification method available.

The **Veteran** preference will generally be verified by review of the DD-214 form, although other third party written verification method may be accepted.

PART III: VERIFYING INCOME AND ASSETS

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

7-III.A. EARNED INCOME

Tips

SCCHA Policy

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

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

SCCHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The SCCHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the SCCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the SCCHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the SCCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

SCCHA Policy

To verify the SS/SSI benefits of applicants, the SCCHA will request a current (dated within the last 90 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the SCCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter they will be required to provide it to the SCCHA.

To verify the SS/SSI benefits of participants, the SCCHA will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the SCCHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the SCCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to the SCCHA.

7-III.D. ALIMONY OR CHILD SUPPORT

SCCHA Policy

The way the SCCHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it **receives regular payments**, verification will be sought in the following order.

If payments are made through a state or local entity, the SCCHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it **receives irregular or no payments**, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due.

This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

SCCHA Policy

The SCCHA shall obtain third-party verification of all family assets upon admitting a family to the HCVP and then again at least every three (3) years thereafter. During the intervening annual reexaminations, SCCHA shall accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then SCCHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. Whenever a family member is added, SCCHA will obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, SCCHA shall obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then SCCHA shall not obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member; however, third-party verification of all family assets will be completed at least every three (3) years.

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two (2) years. The SCCHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

SCCHA Policy

The SCCHA will verify the value of assets disposed of only if:

The SCCHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the SCCCHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The SCCCHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions this declaration does not seem realistic; therefore, the SCCCHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

SCCHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the SCCCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

SCCHA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the SCCCHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the SCCCHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the SCCCHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The SCCHA must obtain verification for income exclusions only if, without verification, the SCCHA would not be able to determine whether the income is to be excluded. For example: If a family's sixteen (16) year old has a job at a fast food restaurant, the SCCHA will confirm that SCCHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

SCCHA Policy

The SCCHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the SCCHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

SCCHA Policy

The SCCHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

Families claiming zero income will be subject to recertification at least every six months.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of twenty-three (23) with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of twenty-three (23) with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the SCCHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

SCCHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the SCCHA will request third party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, the SCCHA will request written verification from the institution of higher education regarding the student's tuition amount.

If the SCCHA is unable to obtain third party written verification of the requested information, the SCCHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, and does not have a dependent child, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with SCCHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

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

SCCHA Policy

If the SCCHA is required to determine the income eligibility of a student's parents, the SCCHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The SCCHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the SCCHA. The required information must be submitted (postmarked) within 10 business days of the date of the SCCHA's request or within any extended timeframe approved by the SCCHA.

The SCCHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the SCCHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The SCCHA must verify that:

- Any person under the age of eighteen (18) for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age eighteen (18) or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The SCCHA must verify that the head, spouse, or cohead is sixty-two (62) years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

SCCHA Policy

The SCCHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the SCCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The SCCHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

In addition, the SCCHA must verify that:

- The household is eligible for the deduction
- The costs to be deducted are qualified medical expenses
- The expenses are not paid for or reimbursed by any other source
- Costs incurred in past years are counted only once

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least sixty-two (62), or a person with disabilities. The SCCCHA must verify that the family meets the definition of an elderly or disabled family provided in the eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the SCCCHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

SCCHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

SCCHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the SCCCHA will verify:

- The anticipated repayment schedule

- The amounts paid in the past, and

- Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-IE.G. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

SCCHA Policy

The SCCCHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible

- If third-party verification is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

- If third-party verification or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

SCCHA Policy

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party verification is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments, or total payments that will be due for the apparatus during the upcoming 12 months

If third-party verification or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the SCCHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above)
- The expense permits a family member, or members, to work (as described in 6-IE.G.)
- The expense is not reimbursed from another source (as described in 6-IE.G.)

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The SCCHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The SCCHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

SCCHA Policy

The SCCHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-IE.G.).

If third-party verification and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

SCCHA Policy

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the SCCHA must verify that:

- The child is eligible for care
- The costs claimed are not reimbursed
- The costs enable a family member to pursue an eligible activity
- The costs are for an allowable type of child care
- The costs are reasonable

Eligible Child

To be eligible for the child care deduction the costs must be incurred for the care of a child under the age of thirteen (13). The SCCHA will verify that the child being cared for (including foster children) is under the age of thirteen (13) (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction the costs must not be reimbursed by another source.

SCCHA Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The SCCHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

SCCHA Policy

Information to be Gathered

The SCCHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the SCCHA will use documentation from a state or local agency that monitors work-related requirements (e.g. welfare or unemployment). In such cases the SCCHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the SCCHA any reports provided to the other agency.

In the event third-party verification is not available, the SCCHA will provide the family with a form on which the family member must record job search efforts. The SCCHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The SCCHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The SCCHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

SCCHA Policy

The SCCHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The SCCHA will verify that the fees paid to the child care provider cover only child care costs (e.g. no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g. prorate costs if some of the care is provided for ineligible family members).

The SCCHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

SCCHA Policy

The actual costs the family incurs will be compared with the SCCHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area the SCCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE
NOTICE (PIH 2004-01, pp. 11-14)**

Upfront (UIV)	Highest (Highly Recommended, highest level of third party verification)
Written 3rd Party	High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)
Oral 3rd Party	Medium (Mandatory if written third party verification is not available)
Document Review	Medium-Low (Use on provisional basis)
Tenant Declaration	Low (Use as a last resort)

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				

Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.

Effective Date of Employment: The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may accept an original SSA Notice from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Use of HUD systems, when available.				
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	Note: The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. Notarized statement should include a perjury penalty statement.
Note: The PHA must not pass verification costs along to the participant.					
Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)					

APPENDIX 7-2

HUD Guidelines for Projecting Annual Income When Upfront Income Verification (UIV) Data is available

The following guidelines are provided to assist PHAs in consistently and uniformly resolving income discrepancies.

HUD has established the criteria for what constitutes a *substantial difference* in cases where UIV income data differs from tenant-provided and/or other verified income information. HUD defines a *substantial difference* as one that is \$200.00 or more per month.

UIV Income Data is Not Substantially Different than Tenant-Provided Income Information

UIV may alleviate the need for 3rd party verifications when there is not a substantial difference between UIV and tenant-reported income.

In cases where UIV income data is **not** substantially different than tenant-reported income, PHAs should follow guidelines below:

- If UIV income data is less than **current** tenant-provided documentation, the PHA will use tenant-provided documents to calculate anticipated annual income.
- If UIV income data is more than **current** tenant-provided documentation, the PHA will use UIV income data to calculate anticipated annual income **unless** the tenant provides the PHA with documentation of a change in circumstances (i.e. change in employment, reduction in hours, etc.) Upon receipt of acceptable tenant-provided documentation of a change in circumstances, the PHA will use tenant-provided documents to calculate anticipated annual income.

UIV Income Data is Substantially Different than Tenant-Provided Income Information

In cases where UIV income data is substantially different than tenant-reported income, PHAs shall follow the guidelines below:

- The PHA shall request written third-party verification for the discrepant income source, in accordance with 24 CFR 5.236(3)(i).

- The PHA should review historical income data for patterns of employment, paid benefits, and/or receipt of other income, when the PHA can not readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.
- The PHA must analyze all data (UIV data, third-party verification and other documents/information provided by the family) and attempt to resolve the income discrepancy.
- The PHA will use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

Comments:

HUD recommends that tenant-provided documents should be dated within the last 60 days of the PHA interview date.

If the PHA is unable to anticipate annual income using current information due to historical fluctuations in income, the PHA may average amounts received/earned to anticipate annual income.

Note that if the tenant disputes UIV Social Security (SS)/Supplemental Security Income (SSI) benefit data, the PHA should request the tenant to provide the PHA with a current, original Social Security Administration (SSA) notice or benefit letter within 10 business days of the PHA interview date. The tenant may contact SSA at 1-800-772-1213 or visit their local SSA office.

Resources for Historical Income Data:

- Social Security Earning Statement (summary of gross earnings for each year that the participant has worked in his/her lifetime) may be obtained for the Social Security Administration. Request for this document may be done via mail or online at www.SSA.gov.
- Two years of earning may be obtained from the UIV System or local State Wage Information Collection Agency (SWICA). This information is not available to PHAs in states that the local SWICA has entered into an agreement with HUD to obtain wage and unemployment compensation data.
- Last eight (8) amounts of Social Security benefits paid to a participant (or household member) may be obtained from the TASS or UIV system.

APPENDIX 7.3

U.S. Department of Housing and Urban Development



Enterprise Income Verification System (EIV)

Security Procedures for Upfront Income Verification (UIV) data

Version 1.4, November 2005



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1.0 Introduction

The Enterprise Income Verification System (EIV) is a system intended to provide a single source of income-related data to PHAs and HUD (hereafter referred to as program administrators) for use in verifying the income reported by tenants participating in the various assisted housing programs. The Office of Public and Indian Housing (PIH) is responsible for administering and maintaining the EIV system. The EIV system assists the program administrators in the upfront verification of tenant income by comparing the tenant income data obtained from various sources including:

- f* Tenant-supplied income data is captured on Form HUD-50058 – Family Report and maintained in the Public Housing Information Center (PIC) database;
- f* Department of Health and Human Services’ National Directory of New Hires Data (NDNH)
- f* Social Security and Supplemental Security Income from the Social Security Administration; and,
- f* User Profile information from the PIC database.

Upfront income verification (UIV) tenant data should only be used to verify a tenant’s eligibility for participation in a HUD rental assistance program and to determine the level of assistance the tenant is entitled to receive. Any other use, **unless approved by the HUD Headquarters EIV Coordinator or EIV Security Officer**, is specifically prohibited and may result in the imposition of civil or criminal penalties on the responsible person or persons. Further, no adverse action can be taken against a tenant until the program administrator has independently verified the UIV information and the tenant has been granted an opportunity to contest any adverse findings through the established grievance hearing, or other legal procedures.

1.1 Applicability

The procedures outlined in this document apply to program administrators that have access to the EIV system and UIV data and administering the: Public Housing and the Housing Choice Voucher Programs. The procedures outlined in this document apply to all UIV data, regardless of the media on which they are recorded. Computerized media containing UIV data must be afforded the same levels of protection given to paper documents or any other media with UIV data.

1.2 Purpose

The purpose of this document is to provide guidance to assure that the practices, controls and safeguards used by program administrators adequately protect the confidentiality of the tenant wage data and are in compliance with the Federal laws regarding the protection of this information. Program administrators should integrate UIV documents and/or actions into



the PHA's occupancy protocols, which also involve Privacy Act related materials, e.g., third-party income, medical and other documents.

1.3 Privacy Act Considerations

The data provided via the EIV system must be protected to ensure that it is only used for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. Privacy of data and data security for computer systems are covered by a variety of Federal laws and regulations, government bulletins, and other guiding documents. The Privacy Act of 1974 as amended, 5 U.S.C. § 552 (a) is one such regulation and EIV data require careful handling in order to assure program administrators' compliance with the Privacy Act. (See *Appendix 1. Safeguards Provided by the Privacy Act.*) The Act also describes the criminal penalties associated with violation of policy supporting the Act. (See *Appendix 2. Criminal Penalties Associated with the Privacy Act.*)



HUD has interagency agreements with:

- the Social Security Administration for the social security (SS) and the supplemental security income (SSI) data and
- the HHS's Office of Child Support Enforcement for information furnished from the National Directory of New Hires (NDNH) data.

Under the Privacy Act, tenants have the right to challenge the accuracy of information maintained by the Federal government that concerns them. If a tenant disputes the employment and/or income information, the tenant must contact the employer. If the information is incorrect, the employer must correct the information and resubmit it to the state, IRS and HHS. The employer is the originator of the data.

If the tenant disputes the SS/SSI information, the tenant must contact SSA. If the SS/SSI information is incorrect, SSA must correct the information and update its database. SSA is the originator of the data.

The program administrator's Security Officer, or designated staff, *must* assure that a copy of Form HUD-9886 - Authorization for the Release of Information/Privacy Act Notice, or an equivalent consent form that meets the requirements under 24 CFR 5.230, has been signed by each member of the household age 18 years old or older and is in the household file. By signing this form, the tenant authorizes HUD and the program administrator to obtain and verify income and unemployment compensation information from various sources including current and former employers, State agencies, SSA and HHS. HUD is relying on program administrators to have this authorization form on file as required by 24 CFR Part 5.230. Information obtained is protected under the Privacy Act. (See *Appendix 3 Form HUD-9886, Authorization for the Release of Information/Privacy Act Notice.*)



2.0 Safeguarding EIV Data

The information processed by the EIV system includes but may not be limited to income data about private individuals; it may identify such information as Social Security Number, Address, and employment information. Once information from the EIV system becomes a part of a system maintained by the program administrator, that system and the information it contains becomes the responsibility of the program administrator. This section focuses on the procedures to be followed when UIV data becomes part of the program administrator's case files as part of the recertification process.



As a condition of receiving the UIV data, program administrators must establish and maintain certain safeguards designed to prevent unauthorized use of the information and to protect the confidentiality of that information.

The program administrator's Security Officer, or other designated staff, will have the responsibility of ensuring compliance with the program administrator's security policies and procedures outlined in this document. These responsibilities include:

- f Maintaining and enforcing the security procedures;
- f Keeping records and monitoring security issues;
- f Communicating security information and requirements to appropriate staff, including coordinating and conducting security awareness training sessions;
- f Conducting a quarterly review of all User IDs issued to determine if the users still have a valid need to access the EIV data and taking the necessary steps to ensure that access rights are revoked or modified as appropriate; and
- f Reporting any evidence of unauthorized access or known security breaches to the PHA Executive Director and taking immediate action to address the impact of the breach including but not limited to prompt notification to appropriate authorities including the HUD Field Office's Public Housing Director (See Section 5.0 – Reporting Improper Disclosures

2.1 Limiting Access to EIV Data

The program administrators should restrict access to UIV data only to persons whose duties or responsibilities require access. Appendix 5 provides a copy of the EIV Access Authorization Form. The program administrators should maintain a record of users who have approved access to UIV data. Further, the program administrators should revoke the access rights of those users who no longer require such access or modify the access rights if a change in the user's duties or responsibilities indicates a change in the current level of privilege – see Section 2.1.2 – User Accounts. Ensure that users sign the EIV



Rules of Behavior and User Agreement form (Appendix 4) which provides general instructions on the appropriate use of the EIV resources and apply to all EIV users, including all program administrators and contractors.



UIV data should be handled in such a manner that it does not become misplaced or available to unauthorized personnel. Files containing UIV information should be color-coded or labeled clearly with the following statement "Confidential" or "For Official Use Only." To avoid inadvertent disclosures, the program administrator staff may keep the UIV information separate from other information and files.

2.1.1 Physical Security Requirements



Program administrators may use a combination of methods to provide physical security for UIV data. These include, but are not limited to, locked containers of various types, locked rooms that have reinforced perimeters, and a locked building with guards. The UIV data may also be maintained in locked metal file cabinets within a locked room.

Access to the areas where UIV data is maintained should be limited even during regular work hours. This may be accomplished by the use of restricted areas, a security room, or locked office space. By controlling the movement of individuals and eliminating unnecessary traffic through these critical areas, program administrators may reduce the opportunity for unauthorized disclosure of UIV data.

Restricted Areas: Program administrators should have any restricted areas clearly identified by the use of prominently posted signs or other indicators. For instance, a "For Authorized Personnel Only" or "Warning: Restricted Area" sign may be posted on the door or in the area. The restricted areas should be separated from non-restricted areas by physical barriers that control access and/or should have limited points of entry.

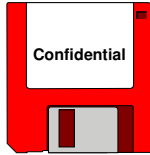
If the UIV data is maintained in a security room or locked space, the program administrator, security officer or designated staff should establish and maintain a key control log to track the inventory of keys available, the number of keys issued and to whom the keys are issued. All employees and contractors who have been issued keys to security rooms or locked spaces should complete a form acknowledging the receipt of the key. Combination locks should be changed or reset regularly, including whenever an employee leaves the program administrator's staff or office (See *Appendix 6. Key Accountability Record* and *Appendix 7. Acknowledgement of Receipt of Keys.*)

The program administrator security officer or designated staff should establish and maintain the list of users who can access the restricted area. The list should indicate the type of access that the user may have to the restricted area; it should indicate which users—such as contractors, maintenance, and janitorial/cleaning staff—must be escorted when entering the restricted area. The restricted area must be cleaned only during regular office hours or in the



presence of an employee with authorized access. (See *Appendix 8. Restricted Area Access Register*.)

2.1.2 Computer System Security Requirements



Program administrators should avoid saving UIV data to a computer hard drive or any other automated information system. If UIV data is saved to a local machine at the program administrator's office, the UIV data should be stored in a separate directory from other data maintained by the program administrator. Access to this directory should be restricted to authorized users of the UIV data. Diskettes or CDs may be used to record and store remarks or comments for the sole purpose of income verification. If used, the disk or CD must be handled and secured in the same manner as the hard copy of the UIV data and must have a label which indicates "Confidential" or "For Official Use Only."

If UIV data is recorded on magnetic media with other data, it should be protected as if it were entirely UIV data. Such commingling of data sources on a single data source or tape should be avoided, if practicable.

Users should retrieve computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers where unauthorized users may access them. If possible, the program administrator should assign a dedicated printer for UIV data use only in order to minimize the unauthorized interception of printed outputs from the EIV system.

Authorized users of UIV data should be directed to avoid leaving UIV data displayed on their computer screens where unauthorized users may view it. A computer should never be left unattended with UIV data displayed on the screen. If an authorized user is viewing UIV data and an unauthorized user approaches the work area, the authorized user should lessen the chance of inadvertent disclosure of UIV data by minimizing or closing out the screen on which the UIV data is being displayed.



User Accounts: User accounts for the EIV system should be provided on a need-to-know basis, with appropriate approval and authorization. The level of access granted determines the functionalities, features, and amounts of data within a specified program administrator jurisdiction or area of authority that the user can see. The EIV Access Authorization Form should be used to request additions, deletions, or modifications of user accounts with access rights to the WASS system. The EIV User and Operations manuals (<http://hudstage.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm>) provide instructions on the use of the EIV system. It also focuses on the end user functionality and administration used for viewing tenant income.

All program administrator employees and contractors who access the EIV system should have a current signed Rules of Behavior and User Agreement on file. Users should maintain the security of their user Accounts by not disclosing their passwords to other staff members and not sharing user

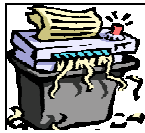


accounts with other employees or contractors. Users should not, deliberately or inadvertently, override the authorized access levels by providing UIV data to others who have limited or no access to the data. For instance, Mary has access to Projects A and B and Betty has access only to Project A. Mary should not provide Betty with printed copies of Report B. Nor should Mary allow Betty to access the system using her User Account to have access as this would provide Betty with unauthorized access to Project B.

2.2 Destruction of Records and Clearing of Various Types of Automated Media

EIV data should be destroyed as soon as it has served its purpose or as prescribed by the program administrators' policy and procedures. (See Appendix 9 and 10) All UIV originals and any documents created in association with their use can be either shredded or burned to prevent the reconstruction of the contents.

It is essential that the methods used to dispose of records are thorough. This applies to both the destruction of record copies pursuant to records schedules as well as copies of records that are no longer needed (See HUD Handbook Nos. 2225.6 REV-1, CHG-49, 2228.1 and 2229.1 for HUD Records Disposition Schedules and Scheduling for Automated Systems.)



If shredding is the process used for disposition: paper should be shredded to effect 5/16 inch wide or smaller strips and microfilm should be shredded to effect 1/35-inch by 3/8 – inch strips. The industry standard is currently 1/2", however the strips can be larger than 5/16"; the strips must be unreadable. Large amounts of shredded paper should not be allowed to accumulate

in the bin.

Magnetic tape containing UIV data must not be made available for reuse by other offices or released for destruction without first being subjected to repeated electromagnetic erasing (not less than three complete passes). It should also be noted what type of machine was used for the electromagnetic erasing. If reuse of the tapes is not intended, the tapes should be destroyed by cutting into lengths of 18 inches or less or by burning them to get a complete incineration.

If disk media is used, any UIV data on it must be destroyed by completely overwriting all data tracks a minimum of three times, using maximum current that will not damage or impair the recording equipment or by running a magnetic strip of sufficient length to reach all areas of the disk over and under each surface a minimum of three times. If the information on the disk cannot be destroyed, the disk should be damaged in a manner that would prevent its use in any disk drive unit and then discarded.

Optical disks that is not re-writable such as CDs and DVDs must be shredded in a manner similar to paper shredding. A media disposal checklist should be used to indicate if the media was destroyed, to be used for surplus



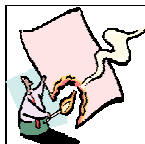
or reuse. **Hand tearing, recycling or burying information in a landfill is an unacceptable method of disposal of UIV data.**

If the agency uses a contractor for the shredding or other record destruction process, it is recommended that the contractor certify to the destruction. If shredding is not to take place on site in the presence of an agency employee, then it is important that the terms of the contract notify the contractor of their responsibility to protect sensitive information and potential liability for unauthorized use or disclosure of personal information. Contractor personnel are to certify that they have knowledge or have received training in security procedures (regarding Privacy Act data) used to protect documents prior to their destruction.

(See Appendix 9 for suggested methods of cleaning or sanitizing various types of media and sample media disposal checklist. This information was obtained from the Department of Health and Human Services Information Security Program Handbook [11-12-04], Appendices I and J).

Burning precautions: If burning is the process for disposition of the UIV material, it may be burned in an incinerator that produces enough heat to burn the entire bundle or the bundle should be separated to ensure that all pages are consumed.

It is important that a log or register be maintained of all documents and media that have been burned, shredded or destroyed. (See Appendix 10A and 10B for samples of EIV disposal/destruction logs.)





3.0 Security Awareness Training



Security awareness training is a crucial aspect of ensuring the security of the EIV system and UIV data. Users and potential users should be made aware of the importance of respecting the privacy of data, following established procedures to maintain privacy and security, and notifying management in the event of

a security or privacy violation.

Before granting employees and contractors access to UIV information, each employee and contractor must be trained in EIV security policies and procedures. Additionally, all employees having access to UIV data should be briefed at least annually on the program administrator's security policy and procedures that require their awareness and compliance. The program administrator security officer or designated staff should record on a program administrator form or record of Security Training all the users attending each briefing. (See *Appendix 11. Security Awareness Training Attendance Record.*)

On completion of security awareness training program administrators should make sure that employees or contractors who access the UIV data have completed a Rules of Behavior and User Agreement indicating that they are aware of the safeguards and responsibilities associated with using the EIV system. Further, program administrator employees should be advised of the penalties associated with the provisions of the Privacy Act of 1974, Section 552(a), which makes unauthorized disclosure or misuse of tenant wage data a crime punishable by a fine of up to \$5,000. (See *Section 1.3 Privacy Act Considerations* and *Appendix 2. Criminal Penalties Associated with the Privacy Act.*)

The program administrator security officer may communicate security information and requirements to appropriate personnel using a variety of methods outside of the formal training and awareness sessions. These methods may include:

- f Discussions at group and managerial meetings; and
- f Security bulletins posted throughout the work areas.



4.0 Record Keeping and Reporting Requirements

The records that are maintained by program administrators in implementing the EIV system are to be consistent with HUD records schedules that have been created to meet legal requirements for records management as administered by the National Archives and Records Service pursuant to 42 U.S.C. 21. The records are to be maintained for at least five years or as prescribed by the applicable program administrator's records control policy or procedures, whichever is longer. In addition, UIV records (both electronic and paper) and the information contained in them must be used only for their intended purpose (the administration of Federal rental assistance programs and determining tenant income eligibility) to avoid unintentional disclosures of personal private information, which would be a violation the Privacy Act of 1974.

The agreement with the Social Security Administration (SSA) to provide the social security and supplemental security information data and the HHS's Office of Child Support Enforcement to provide the income data from the National Directory of New Hires (NDNH) specifies that **any incorrect information or challenge to the accuracy of information that these agencies furnish is to be referred to the agencies for disposition and not the program administrators.**

Once information from UIV information becomes part of a system maintained by the program administrator, that system and the information that it contains becomes the responsibility of the program administrator. This document focuses on the policies and procedures to be followed when UIV information becomes part of program administrator's case files as part of the recertification process or the review thereof.

Record Keeping Requirements

The EIV system presently does not support downloading of information by users. At such time as it does, it will be the responsibility of the program administrator to securely maintain that information from unauthorized access and unwarranted disclosure. Reports and screen prints of UIV information are to be maintained securely. (See Section 6 – Program Administrator Security Assessment, subsection 3 – Administrative Safeguards.

Protection of copies of records and the information within them

Xerox copies, spreadsheets, files or records that contain personal information derived from the UIV data are to be protected from unauthorized access and inadvertent disclosure. These documents are to be destroyed in accordance with the information in Section 2.2 – Disposal of EIV Information.

UIV screens that contain personal information and reports are also covered by the Privacy Act. Labeling documents as private is a protection against



inadvertent disclosure. All documents, file folders/cabinets or electronic storage media created by program administrators containing personal information from UIV or derived using UIV data are to be labeled "Confidential." An exception from the labeling requirement is for documents derived from UIV data that are purely summary in nature, such as data aggregated at the program administrator level. The files, when not in use, are to be locked away from physical access and are to be password protected if they are on a computer.

Official file copies of Public Housing program records, UIV user administration and UIV security administration records are only to be disposed of not sooner than within 5 years of creation and following the approved program administration schedule.

Access to UIV information.

UIV information is available to program administrator staff within the scope of their responsibilities for the administration of Public Housing and Housing Choice Voucher Programs and for the administration of the EIV system itself. Thus, program administrator staff may only access records within the scope of their duties, which typically concern only their own PHA and program area. The scope of individual responsibilities may be assigned within the scope of specific Public Housing developments or projects.

Some program administrators administer rental assistance programs for other program administrators under a contract(s) or cooperative agreement(s) and individual assignments covering more than one PHA are to be documented in the application for access in the User Administration file.

When a program administrator services more than one PHA, project and/or contract, the records from the different program administrators are not to be co-mingled with other program administrators file records and/or data.

The scope of responsibility of anyone who accesses the EIV system is documented in the EIV User Administration file and the User Administrator or Security Administrator/Officer should be consulted if there is an issue. The Security Administrator/Officer also is to be consulted if there is an issue regarding access by individuals who do not have access to EIV system but who may be responsible for occupancy specialist type functions.

Any issue regarding the possible disclosure to third parties of information from UIV files, including records derived from those files and case files in which UIV data has been incorporated should be referred to the program administrator security officer or designee responsible (in writing). If a security violation may already have occurred such as improper disclosure of information to a third party, the program administrator's security officer or designee should notify program administrator's security administrator and/or the HUD Office of Inspector General. See Section 5.0 – Reporting Improper Disclosures.

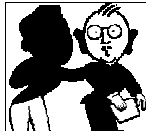
Program administrator staff should not re-disclose the UIV data it receives without proper authorization from the program administrator's security officer or designee. When the re-disclosure of the UIV data is authorized,



information disclosed outside of the program administrator's office/agency must be recorded on a list, which reflects to whom the disclosure was made, what was disclosed, why and when it was disclosed and when and if it was returned.



5.0 Reporting Improper Disclosures



Recognition, reporting, and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV system. These security violations may include the disclosure of private data as well as attempts to access unauthorized data and the sharing of User IDs and

passwords. Upon the discovery of a possible improper disclosure of UIV information or another security violation by a program administrator employee or any other person, the individual making the observation or receiving the information should contact the program administrator's security officer and/or the Field Office's Office of Public Housing Director. The program administrator security officer or designated staff should document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred.

The following contacts should be made:

- The program administrator security officer should contact and provide the PHA Executive Director or the designee with the written documentation;
- The PHA Executive Director or the designee should provide the HUD Field Office Public Housing Director with the written documentation; and,
- The HUD Field Office Public Housing Director upon receipt of the written documentation will make a determination regarding the referral and the provision of the written documentation to the Headquarters EIV Coordinator and/or EIV Security Officer for further review and follow-up action.



6.0 Program Administrator Security Assessment

Introduction

The practices and controls used by HUD and program administrators to secure upfront income verification information may be grouped into three categories: technical safeguards, administrative safeguards, and physical safeguards. Various technical safeguards have been built into the EIV system to mitigate the risk of security violations. However, technical safeguards alone, without complementary physical safeguards and/or administrative safeguards do not meet HUD's standard for the protection of private data.

HUD has implemented various physical and administrative safeguards to complement the technical safeguards. Program administrators are strongly encouraged to take all reasonable steps to implement a combination of technical, physical, and administrative safeguards in order to assure that EIV data is appropriately secured. The physical and administrative safeguards that are implemented by a program administrator must be appropriate when considered in combination with the technical safeguards available to the program administrator through the EIV system.

The security safeguards described throughout this *Security Guide* are consolidated below. Program administrators should assess their Privacy Act-related safeguards by reviewing the following safeguard options.

1. Technical Safeguards

A. Purposes of the Technical Safeguards

- f* Reduce the risk of a security violation related to the EIV system's software, network, or applications
- f* Identify and authenticate all users seeking access to the UIV data
- f* Deter and detect attempts to access the system without authorization
- f* Monitor the user activity on the EIV system

B. Description of the Technical Safeguards

The technical controls that have been built into the EIV system address the following:

- f* User Identification and Authentication
 - Each user is required to have their own User ID and Password
 - The User ID identifies the program administrators and tenant information that the



user is authorized to access

- Passwords are encrypted and the password file is protected from unauthorized access
- The system forces all users to change their password every 21 days and limits the reuse of previous passwords
- After three unsuccessful attempts to log in, the User ID is locked and the user has to contact the System Administrator to have the password reset

f Online User Alerts

- Online warning messages that inform the user of the civil and criminal penalties associated with unauthorized use of the UIV data

2. Physical Safeguards

A program administrator may implement any combination of the following physical safeguards that (a) meets acceptable standards for the protection provided by the specific safeguard, (b) accomplishes the purpose of the safeguards, and (c) conforms to standards of security stated here and elsewhere in this document.

A. Purposes of the physical safeguards

- f* Provide barriers between unauthorized persons and documents containing private data
- f* Provide barriers between unauthorized persons and computer media containing files that contain private data
- f* Prevent undetected entry to protected areas and/or to protected documents or computer media
- f* Provide immediate notification, noticeable under normal operating conditions, if the barrier is penetrated by unauthorized persons
- f* Prevent viewing or sensing of private information by any person by any means from outside the area confined by the barrier
- f* Allow authorized persons to have monitored and controlled access to protected private data

B. Alternatives for physical safeguards

- f* Locked and monitored buildings, offices, or storage rooms
- f* Locked and monitored metal file cabinets
- f* Designated secure areas and equipment



- Security rooms or locked office space with limited (minimum required) points of entry (e.g., doors)
- Security rooms or locked office space with limited (minimum required) means of entry (e.g., keys)
- Restricted areas with prominently posted signs or other indicators identifying them and limited points of entry
- Physical and administrative means for monitoring access to the secure areas and access and use of the protected data
- Restricted use printers, copiers, facsimile machines, etc.

f Secure computer systems and output

- Store UIV data in a separate, restricted-access directory if files are saved to local machine
- Label all diskettes containing UIV data “Confidential” or “For Official Use Only”
- Retrieve all computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers
- Avoid leaving a computer unattended with UIV data displayed on the screen

f Secure disposal of UIV information

- Destroy as soon as it has served its purpose or as prescribed by the PHA’s policy and procedures
- All UIV originals and copies should either be burned or shredded

3. Administrative Safeguards

A program administrator may implement any combination of the following administrative safeguards that (a) meets acceptable standards for the protection provided by the specific safeguard, (b) accomplishes the purpose of the safeguards, and (c) conforms to standards of security stated here and elsewhere in this document.

A. Purposes of the administrative safeguards

- f* Ensure that access rights, roles, and responsibilities are appropriately and adequately assigned
- f* Maintain security-related records
- f* Monitor programmatic security issues



- f* Maintain, communicate, and enforce standard operating procedures related to securing UIV data
- f* Monitor access to protected private data located within the barriers of physical safeguards
- f* Control access to protected private data located within the barriers of physical safeguards

B. Alternatives for administrative safeguards

Program administrators should implement administrative safeguards to address the following:

- f* Assigning and Monitoring Access Rights
 - Determine which users should have access to UIV information
 - Maintain a record of all users who have approved access to UIV data including the date the access was granted and the date access was terminated
 - Ensure that all users who access the EIV system have a current signed *User Agreement* on file
 - Conduct a quarterly review of all User IDs to determine if the user still has a valid need to access the UIV data
 - Ensure that access rights are modified or revoked as appropriate
- f* Keeping Records and Monitoring Security Issues
 - Assure that a copy of *Forms HUD-9886* or HUD 9887 has been signed by each adult member of the household and is kept in the household file
 - Maintain a key control log to track the inventory of keys available for secure buildings, rooms, or file cabinets, the number of keys issued and to whom the keys are issued
 - Ensure that all employees and contractors who have been issued keys to secure areas complete a form acknowledging the receipt of the key
 - Maintain a log of all users who access designated secure areas including the date and time of entry and exit and the purpose of the access
 - Ensure that combination locks are reset regularly, including whenever an employee leaves the program administrator's staff or office
 - Ensure that UIV information is disposed of in an appropriate manner
 - Maintain a log of all documents that have been burned or shredded including the name of the employee who conducted the disposal, a description of the documents, the method of disposal, and the date of the disposal.



f Conducting Security Awareness Training

- Ensure that all users of UIV data receive training in UIV security policies and procedures at the time of employment and at least annually afterwards
- Maintain a record of all personnel who have attended training sessions
- Communicate security information and requirements to appropriate personnel using various methods including discussions at group and managerial meetings and security bulletins posted throughout the work areas
- Distribute all User Guides and Security Procedures to personnel using UIV data

f Reporting Improper Disclosures

- Report any evidence of unauthorized access or known security breaches to the PHA Executive Director and the HUD Field Office Public Housing Director)
- Document all improper disclosures in writing
- Report all security violations regardless of whether the security violation was intentional or unintentional



Appendix 1. Safeguards Provided by the Privacy Act

The Privacy Act provides safeguards for individuals against invasions of privacy by requiring Federal agencies, except as otherwise provided by law or regulation, to:

1. Permit individuals to know what records pertaining to them are collected, maintained, used, or disseminated;
2. Allow individuals to prevent records pertaining to them, obtained for a particular purpose, from being used or made available for another purpose without their consent;
3. Permit individuals to gain access to information pertaining to them, obtain a copy of all or any portions thereof, and correct or amend such records;
4. Collect, maintain, use, or disseminate personally identifiable information in a manner that ensures the information is current and accurate, and that adequate safeguards are provided to prevent misuse of such information;
5. Permit exemption from the requirements of the Act only where an important public policy need exists as determined by specific statutory authority; and
6. Be subject to a civil suit for any damages that occur as a result of action that violates any individual's rights under this Act.



Appendix 2. Criminal Penalties Associated with the Privacy Act

The Privacy Act of 1974 as amended, 5 U.S.C. § 552 (a)

(i)

1. CRIMINAL PENALTIES.--Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established there under, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
2. Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e) (4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.
3. Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

Warnings in the EIV system welcome page provide a reminder each time the user logs in of the security considerations of the EIV system.



Appendix 3. Form HUD-9886, Authorization for the Release of Information/Privacy Act Notice

Authorization for the Release of Information/ Privacy Act Notice

to the U.S. Department of Housing and Urban Development (HUD)
and the Housing Agency/Authority (HA)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

PHA requesting release of information; (Cross out space if none)
(Full address, name of contact person, and date)

IHA requesting release of information; (Cross out space if none)
(Full address, name of contact person, and date)

Authority: Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by Section 903 of the Housing and Community Development Act of 1992 and Section 3003 of the Omnibus Budget Reconciliation Act of 1993. This law is found at 42 U.S.C. 3544.

This law requires that you sign a consent form authorizing: (1) HUD and the Housing Agency/Authority (HA) to request verification of salary and wages from current or previous employers; (2) HUD and the HA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information; (3) HUD to request certain tax return information from the U.S. Social Security Administration and the U.S. Internal Revenue Service. The law also requires independent verification of income information. Therefore, HUD or the HA may request information from financial institutions to verify your eligibility and level of benefits.

Purpose: In signing this consent form, you are authorizing HUD and the above-named HA to request income information from the sources listed on the form. HUD and the HA need this information to verify your household's income, in order to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct level. HUD and the HA may participate in computer matching programs with these sources in order to verify your eligibility and level of benefits.

Uses of Information to be Obtained: HUD is required to protect the income information it obtains in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. HUD may disclose information (other than tax return information) for certain routine uses, such as to other government agencies for law enforcement purposes, to Federal agencies for employment suitability purposes and to HAs for the purpose of determining housing assistance. The HA is also required to protect the income information it obtains in accordance with any applicable State privacy law. HUD and HA employees may be subject to penalties for unauthorized disclosures or improper uses of the income information that is obtained based on the consent form. **Private owners may not request or receive information authorized by this form.**

Who Must Sign the Consent Form: Each member of your household who is 18 years of age or older must sign the consent form. Additional signatures must be obtained from new adult members joining the household or whenever members of the household become 18 years of age.

Persons who apply for or receive assistance under the following programs are required to sign this consent form:

PHA-owned rental public housing
Turnkey III Homeownership Opportunities
Mutual Help Homeownership Opportunity
Section 23 and 19(c) leased housing
Section 23 Housing Assistance Payments
HA-owned rental Indian housing
Section 8 Rental Certificate
Section 8 Rental Voucher
Section 8 Moderate Rehabilitation

Failure to Sign Consent Form: Your failure to sign the consent form may result in the denial of eligibility or termination of assisted housing benefits, or both. Denial of eligibility or termination of benefits is subject to the HA's grievance procedures and Section 8 informal hearing procedures.

Sources of Information To Be Obtained

State Wage Information Collection Agencies. (This consent is limited to wages and unemployment compensation I have received during period(s) within the last 5 years when I have received assisted housing benefits.)

U.S. Social Security Administration (HUD only) (This consent is limited to the wage and self employment information and payments of retirement income as referenced at Section 6103(1)(7)(A) of the Internal Revenue Code.)

U.S. Internal Revenue Service (HUD only) (This consent is limited to unearned income [i.e., interest and dividends].)

Information may also be obtained directly from: (a) current and former employers concerning salary and wages and (b) financial institutions concerning unearned income (i.e., interest and dividends). I understand that income information obtained from these sources will be used to verify information that I provide in determining eligibility for assisted housing programs and the level of benefits. Therefore, this consent form only authorizes release directly from employers and financial institutions of information regarding any period(s) within the last 5 years when I have received assisted housing benefits.



Office of Public and Indian Housing
EIV System: Security Procedures for UIV Data

Consent: I consent to allow HUD or the HA to request and obtain income information from the sources listed on this form for the purpose of verifying my eligibility and level of benefits under HUD's assisted housing programs. I understand that HAs that receive income information under this consent form cannot use it to deny, reduce or terminate assistance without first independently verifying what the amount was, whether I actually had access to the funds and when the funds were received. In addition, I must be given an opportunity to contest those determinations.

This consent form expires 15 months after signed.

Signatures:

Head of Household	Date		
Social Security Number (if any) of Head of Household		Other Family Member over age 18	Date
Spouse	Date	Other Family Member over age 18	Date
Other Family Member over age 18	Date	Other Family Member over age 18	Date
Other Family Member over age 18	Date	Other Family Member over age 18	Date

Privacy Act Notice. Authority: The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the Social Security Number of each household member who is six years old or older. Purpose: Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities. Other Uses: HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the Government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate Federal, State, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. Penalty: You must provide all of the information requested by the HA, including all Social Security Numbers you, and all other household members age six years and older, have and use. Giving the Social Security Numbers of all household members six years of age and older is mandatory, and not providing the Social Security Numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

Penalties for Misusing this Consent:

HUD, the HA and any owner (or any employee of HUD, the HA or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form.

Use of the information collected based on the form HUD 9886 is restricted to the purposes cited on the form HUD 9886. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000.

Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the HA or the owner responsible for the unauthorized disclosure or improper use.

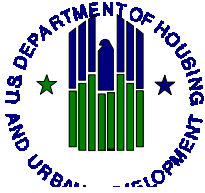
Original is retained by the requesting organization.

ref. Handbooks 7420.7, 7420.8, & 7465.1

form HUD-9886 (7/94)



Appendix 4. Access Authorization Form for Program Administrators



Enterprise Income Verification (EIV) System

Rules of Behavior and User Agreement

HUD Office or Field

Office Name: _____

(To be completed by HUD employees/contractors)

HUD Field Office Code: _____

(e.g. 1HBOS)

PHA Name: _____

(To be completed by PHA employees/contractors)

PHA Code: _____

(e.g. MD999)

A. Rules of Behavior

1. Introduction

The U.S. Department of Housing and Urban Development (HUD), Public and Indian Housing Real Estate Assessment Center (PIH-REAC) is actively involved in implementing and maintaining Office Departmental policies and procedures to keep PIH-REAC Systems secure from unauthorized access and inappropriate use. In compliance with various security-related Federal laws and regulations, PIH-REAC created these of rules of behavior for the Enterprise Income Verification (EIV) system. This document was created to ensure that EIV system users comply with HUD and PIH-REAC security policies. In addition, this document ensures that system accounts remain secure and are used in the appropriate manner.

PIH-REAC may grant limited system access to users (e.g. HUD employees, contractors, clients/customers, and program participants) who have a need to utilize the PIH-REAC information resources. EIV resources are for official use only. As a condition of receiving access, you are required to understand and abide by the HUD and PIH-REAC's EIV system security policies and procedures. The purpose of these policies and procedures is to safeguard the PIH-REAC's valuable information resources.

All EIV users must adhere to the Rules of Behavior outlined in this document. The rules clearly delineate responsibilities of, and expectations for, all individuals with access to the EIV system. Non-compliance with these rules will be disciplined through sanctions commensurate with the level of infraction. This may include removal of system access for a specific period of time or termination depending on the severity of the violation. See Section B for potential civil and criminal penalties.



2. Responsibilities

The System Owner is responsible for ensuring that an adequate level of protection is afforded to the EIV system through an appropriate implementation of technical, operational, and managerial security controls.

EIV system users are responsible for the protection of passwords, information, equipment, systems, networks, and communication pathways to which they have access. All HUD computer resources including hardware, software, programs, files, paper reports, and data are the sole property of HUD.

3. Other Policies and Procedures

The Rules of Behavior do not replace existing HUD or PIH-REAC policy, rather they are intended to enhance and further define the specific rules each user must follow while accessing the EIV system. The rules are consistent with the policy and procedures described in the following security documents:

HUD Security Program Policy The policy, HUD Handbook 2400.25, Rev. 1 dated May 2005, prescribes responsibilities, practices, and conditions that directly or indirectly promote security in the development, operation, maintenance, and support of all HUD IT resources.

4. Application Rules

The Web Access Security System (WASS) user identification (userID) and password issued to you are to be used solely in connection with the performance of your responsibilities in support of HUD's mission and may not be used for personal or private gain. You agree to be responsible for the confidentiality of the assigned information and accountable for all activity with your userID. Furthermore, you agree that you will not provide this confidential userID/password to another user during employment and upon leaving the employment of the Department. Additional rules of the EIV system are as follows:

System Access (on-site only) – Users are required to use only approved HUD software, software settings, and comply with vendor software license agreements. Users are allowed to access the system only using the mechanisms specified by PIH-REAC.

Unofficial use of government information – Users must be aware that personal use of information resources is prohibited. EIV data is personal information covered by the Privacy Act and penalties apply to the misuse of that data.



Information protection – Users must avoid leaving system output records or reports unattended or unsecured. Users should lock the computer or log-out of the system when leaving work areas unattended. Users shall not violate Public Law 93-579, Privacy Act of 1974, which requires confidentiality of personal data contained in government and contractor data files. Users should back up their data, test the data backups, and securely store the data in accordance with PIH-REAC policy.

Use of passwords – User passwords and userIDs are for your individual use only and are confidential HUD information. Users are required to change passwords every 21 days. Users are encouraged to avoid creating passwords that can be easily associated with.

System privileges – Users are given access to the system based on a need to perform specific work. Users shall only access the information for which they are authorized.

Individual accountability – Users shall be held accountable for their actions while accessing the system. Be aware that all computer resources are monitored and audited.

Incident Response – Users should contact their supervisor and the PIH-REAC Security Officer immediately regarding any suspected violation or breach of system security.

B. User Agreement

I have read the above policy regarding system security awareness and practices when accessing PIH-REAC's information technology resources. I understand the policies and procedures as set forth above, and I agree to comply with these requirements as a condition of being granted limited access to the Enterprise Income Verification System and data.

As an authorized user of the Enterprise Income Verification System, I understand the information obtained may only be used for official HUD/PHA business. I understand that only authorized HUD or PHA employees may access, disclose, inspect and use upfront income verification (UIV) data.

I also understand that willful unauthorized inspection of UIV data can result in civil and criminal penalties. The penalties are as follows:

- **Unauthorized disclosure** can result in a felony conviction and a fine of up to \$5,000 and/or imprisonment up to five (5) years, as well as civil penalties.



- **Unauthorized inspection** of UIV data can result in a misdemeanor penalty of up to \$1,000 and/or one (1)-year imprisonment, as well as civil damages.

I understand that my user ID and password are to be used only by me. Under no circumstances will I reveal or allow use of my password by another person. Nor will I use another person's password and user ID.

I understand and agree to follow all HUD/PHA standards, policies and procedures.

_____	_____	_____
EIV System User's Name (Signature)	EIV System User's Name (Print)	Date

Copy – File



Appendix 5. HUD/PHA Access Authorization Form



Enterprise Income Verification (EIV) System HUD/PHA Access Authorization Form

(Please Print or Type)

Date of Request: _____

HUD Office HUD Field Office

Name: _____ Code: _____

(To be completed by HUD users)

(e.g., 1HBOS)

PHA Name: _____ PHA Code: _____

(To be completed by PHA users)

(e.g., MD999)

Type of Function Required (check one)

☐ Add Access ☐ Terminate User ☐ Modify Access

(Provide details of modification request)

Authorized User Details

Name: (Last, First, and Middle Initial) _____ WASS User ID: _____

Position Title: _____ Phone Number: _____

Email Address: _____ Fax Number: _____

Type of work which involves use of UIV data: _____

Check all that apply

Access Level: HUD Headquarters

☐ PHA

☐ HUB

☐ Field Office

☐ TARC

PHA User Access
Role:

☐ PHA Occupancy –
Public Housing

☐ PHA Occupancy
– Voucher

☐ PHA User
Administrator

☐ PHA Security
Administrator

HUD User Access
Role:

☐ Occupancy
Specialist

☐ User
Administrator

☐ Security
Administrator

Specify the Project Numbers and/or PHA Codes to which access will be limited. Continue the list on a separate sheet, if necessary, or put "All".

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

November 2005

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I authorize/request the above person access as indicated to the EIV System.

HUD Headquarters UIV
Coordinator:

Name (Print) Signature

Date

Public Housing Director:
(Field Office users only)

Name (Print)

Signature

Date

Executive Director or Designee:
(PHA users only) Name (Print)

Signature

Date

Copy 1 – File



Appendix 6. Key Accountability Record

Program Administrator Name _____

KEY ACCOUNTABILITY RECORD

KEY TO	TOTAL AVAILABLE	TOTAL ISSUED	PERSON ISSUED KEY
Last Update:			



Appendix 7. Acknowledgement of Receipt of Keys

Program Administrator

ACKNOWLEDGMENT OF RECEIPT OF KEYS

I _____ acknowledge receipt of
(Print Employee Name)

a key to the _____.
(State which File Cabinet or Door)

I understand that I:

1. Must not make unauthorized copies of key.
2. Must safeguard the key and not give it to anyone else.
3. Must not use the key to give access to unauthorized persons.

I also understand that unauthorized disclosure of Enterprise Income Verification (EIV) data can result in a felony conviction punishable by a fine of up to \$5,000 and/or imprisonment up to five (5) years, as well as civil penalties. Also, unauthorized inspection of EIV data can result in a misdemeanor penalty of up to \$1,000 and/or one (1)-year imprisonment, as well as civil penalties.

Signature of Recipient

Date

Signature of Security Manager/Officer

Date



Appendix 8. Restricted Area Access Register

Program Administrator Restricted Area Access Register

Full Name	Signature	Program Administrator Employee	Entry		Departure	
			Date	Time	Date	Time



Appendix 9. Guide for Cleaning or Sanitizing Media

Methods of Cleaning or Sanitizing Various Types of Media

Media	Clear	Sanitize
Magnetic Tape		
Degaussing Type I	a or b	a, b, or m
Degaussing Type II	a or b	b or m
Degaussing Type III	a or b	m
Magnetic Disk		
Bernoullis	a, b, or c	m
Floppies	a, b, or c	m
Nonremovable Rigid Disk	c	a, b, d, or m
Removable Rigid Disk	a, b, or c	a, b, d, or m
Optical Disk		
Read Many, Write Many	c	m
Read Only		m, n
Write Once, Read Many (WORM)		m, n
Memory		
Dynamic Random Access Memory (DRAM)	c or g	c, g, or m
Electronically Alterable PROM (EAPROM)	i	j or m
Electronically Erasable PROM (EEPROM)	i	h or m
Erasable Programmable ROM (EPROM)	k	l, then c, or m
Flash EPROM (FEPROM)	i	c then i, or m
Programmable ROM (PROM)	c	m
Magnetic Bubble Memory	c	a, b, c, or m
Magnetic Core Memory	c	a, b, e, or m
Magnetic Plated Wire	c	c and f, or m
Magnetic Resistive Memory	c	m
Nonvolatile RAM (NOVRAM)	c or g	c, g, or m
Read-Only Memory (ROM)		m
Static Random Access Memory (SRAM)	c or g	c and f, g, or m
Equipment		
Cathode Ray Tube (CRT)	g	q
Printers		
Impact	g	p then g
Laser	g	o then g



Table Key

- (a) Degauss with a Type I degausser. Type I degaussers are equipment rated to degauss magnetic media having a maximum coercivity of 350 Oersteds.
- (b) Degauss with a Type II degausser. Type II degaussers are equipment rated to degauss magnetic media having a maximum coercivity of 750 Oersteds.
- (c) Overwrite all addressable locations with a single character.
- (d) Overwrite all addressable locations with a character, its complement, and then a random character. Verify. This method is NOT approved for sanitizing media containing Top Secret information.
- (e) Overwrite all addressable locations with a character, its complement, and then a random character.
- (f) Each overwrite must reside in memory for a period longer than the period during which the classified data resided.
- (g) Remove all power including battery power.
- (h) Overwrite all locations with a random pattern, all locations with binary zeros, and all locations with binary ones.
- (i) Perform a full chip erase as directed by the manufacturer's data sheets.
- (j) Perform (i) above, then (c) above, for a total of three times.
- (k) Perform an ultraviolet erase as directed by the manufacturer's data sheets.
- (l) Perform (k) above, but increase the time by a factor of three.
- (m) Destroy—disintegrate, incinerate, pulverize, shred, or melt.
- (n) Perform the required destruction only if classified information is contained.
- (o) Run five pages of unclassified text (font test acceptable).
- (p) Destroy ribbons and clean platens.
- (q) Inspect and/or test screen surface for evidence of burned-in information. If a CRT is present, it must be destroyed.



Appendix 10A. Media Destruction Log

Sample Media Destruction Log

Media Description (Include make and model if applicable.): _____

System Name: _____

Serial Number: _____

Removal From Service Date: _____

☐ For Destruction ☐ For Surplus ☐ For Reuse Disposition* (See checklist.):

Action	Completed
Remove media from operating environment and mark "Removed from Service."	<input type="checkbox"/>
Store removed media in a secure location before sanitizing.	<input type="checkbox"/>
Determine the disposition of the media by considering the following:	
<input type="checkbox"/> Sensitivity of data	<input type="checkbox"/>
<input type="checkbox"/> Ability to render the data unreadable	<input type="checkbox"/>
<input type="checkbox"/> Continued need for the media item	<input type="checkbox"/>
Mark media with appropriate disposition	<input type="checkbox"/>
<input type="checkbox"/> Use overwriting software on the media. <i>Name and version of software used:</i>	<input type="checkbox"/>
<input type="checkbox"/> Use a degausser on media containing highly sensitive data. <i>Brand and coercivity of degausser used:</i>	<input type="checkbox"/>
Verify that media is unreadable:**	<input type="checkbox"/>
<input type="checkbox"/> If not unreadable, repeat degaussing.	<input type="checkbox"/>
<input type="checkbox"/> If degaussing fails, mark media "For Destruction."	<input type="checkbox"/>
If media is to be destroyed:	
<input type="checkbox"/> Mark "For Destruction."	<input type="checkbox"/>
<input type="checkbox"/> Notify inventory representative for removal of media.	<input type="checkbox"/>
If media is to be surplus:	
<input type="checkbox"/> Mark "For Surplus—Sanitized."	<input type="checkbox"/>
<input type="checkbox"/> Notify inventory representative for removal of media.	<input type="checkbox"/>
If media is to be reused:	
<input type="checkbox"/> Mark "For Reuse—Sanitized."	<input type="checkbox"/>
<input type="checkbox"/> Return media to production environment or place in storage.	<input type="checkbox"/>
Update configuration management plan.	<input type="checkbox"/>
Retain the completed checklist in the sanitization log.	<input type="checkbox"/>

Signature: _____ Date: _____

Verifier Signature: _____ Date: _____

** A trained individual other than the one who performed the sanitization process should perform verification on a random basis.



Appendix 10B. EIV Disposal Log

(Program Administrator Name)
EIV Disposal Log

Name of Employee	What was Disposed	How	Date

Appendix 11. Security Awareness Training Attendance Record

(Name of Program Administrator)

Security Awareness Training

Attendance Record

Instructor: _____

Employee/ Employee/

Contractor Name

Contractor Signature

Business Area/ Office

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____

Date of Training: _____



Appendix 12. Reference Listing

HUD:

User Manual: Enterprise Income Verification (EIV), v 4.0, September 2005

Operations Manual: Enterprise Income Verification System (EIV), v4.0, September 2005, User Administration (Chapter 3)

This chapter discusses the administration of EIV system user functions. Topics discussed include:

- Understanding User Administration
- Searching for User Information
- User Administration-Individual User
- User Administration-Group of Users

HUD Record keeping References: Handbook No. 2225.6 REV-1, CHG-49 – HUD Records Disposition Schedules, Schedule 35, Office of Troubled Agency Recovery, Appendix 35, Nos. 69-72; Handbook 2228.1 Records Disposition Management; Handbook 2229.1 – Records Disposition Scheduling for Automated Systems

HHS:

HHS' Information Security Program, Information Security Program Handbook, November 12, 2004

HHS' Information Security Program, Information Security Program Policy, December 15, 2004

November 2005

• **EXHIBIT 7-4: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

<ul style="list-style-type: none"> • All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. • Except for persons 62 or older, all noncitizens must sign a verification consent form • Additional documents are required based upon the person's status. 	
Elderly Noncitizens <ul style="list-style-type: none"> • A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits. 	
All other Noncitizens <ul style="list-style-type: none"> • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below. 	
<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> • “Admitted as a Refugee Pursuant to Section 207” • “Section 208” or “Asylum” • “Section 243(h)” or “Deportation stayed by Attorney General” • “Paroled Pursuant to Section 221 (d)(5) of the USCIS” 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> • A final court decision granting asylum (but only if no appeal is taken); • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none"> • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. 	<ul style="list-style-type: none"> • Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> • A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or • Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i> 	

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the SCCHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and SCCHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

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

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

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

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

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

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

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors
- Carbon Monoxide Detector

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the SCCHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the SCCHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

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

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

SCCHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the SCCHA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

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

Thermal Environment [HCV GB p.10-7]

The SCCHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

SCCHA Policy

The heating system must be capable of maintaining a minimum interior temperature of 68 degrees Fahrenheit between October 1 and May 1. The need for “air conditioning” is considered a “tenant preference” item. However, if an approved unit is initially equipped with an owner-provided central or window air conditioning unit, the SCCHA shall require the air conditioning unit to be maintained in proper operating condition during the term of the lease and HAP contract.

Clarifications of HUD Requirements

SCCHA Policy

As permitted by HUD, the SCCHA has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

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

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be operable without the use of a key.

Floors

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

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

All commode water supply lines must have a shut-off valve. Shut-off valves are strongly encouraged on all sink faucets as a measure to prevent excessive water usage and property damage in event of leakage and to facilitate faucet repair.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is

responsible for ensuring that the family is instructed on the use of the quick release system.

Water Supply

There must be an approvable public or private sanitary water supply for the unit. If the structure is connected to a city, town, or other public water supply, this will pass. If it is a private water supply, such as well water, for the unit to pass initial inspection the property owner is required to provide a copy of written certification from the appropriate public entity that the water supply meets applicable quality standards. The certification must be dated within the last twelve month period. Once the unit passes the initial inspection, the tenant and owner assume joint responsibility to ensure that the water supply continues to meet applicable quality standards (this does not mean that the tenant is required to pay for any costs associated with necessary improvements to the private water supply).

8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the SCCHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of SCCHA notification.

SCCHA Policy

The following are considered life threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 32 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit

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

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

The owner will be required to repair an inoperable smoke detector unless the SCCHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

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

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family. The owner may also charge the family for repairs and other maintenance work that exceeds normal wear and tear and/or is the result of the family's living habits (e.g. costs incurred for extermination treatment over and above what is customarily needed due to the family's living habits).

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

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

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

SCCHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

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

PART II: THE INSPECTION PROCESS

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

Types of Inspections

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

- *Initial Inspections.* The SCCHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections.* HUD requires the SCCHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections. SCCHA may also conduct special inspections as a fraud investigation/prevention measure.
- *Quality Control Inspections.* HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of SCCHA-owned Units [24 CFR 982.352(b)]

The SCCHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a SCCHA-owned unit. A SCCHA-owned unit is defined as a unit that is owned by the SCCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the SCCHA). The independent agency must communicate the results of each inspection to the family and SCCHA. The independent agency must be approved by HUD, and may be the unit of general local government for the SCCHA jurisdiction (unless the SCCHA is itself the unit of general local government or an agency of such government).

Inspection Costs

In the case of inspections of SCCHA-owned units, the SCCHA may compensate the independent agency from ongoing administrative fee for inspections performed.

The SCCHA will bear the cost for the initial, annual, and first re-inspection subsequent to an initial, annual inspection, special, quality control inspection or other SCCHA-initiated inspection. SCCHA will charge the owner a \$50 fee for inspections beyond the first re-inspection. This policy is designed to encourage owners to make necessary repairs on a timely basis.

Notice and Scheduling

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

SCCHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency and program fraud investigation, reasonable notice is considered to be not less than 48 hours. Inspections will generally be scheduled between 7:00 a.m. and 4:30 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, the SCCHA will give as much notice as possible, given the nature of the emergency. SCCHA may enter a unit for inspection and/or fraud investigation/prevention purposes without notice with the consent of the family.

Owner and Family Inspection Attendance

HUD permits the SCCHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

SCCHA Policy

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

At initial inspection of a vacant unit, the SCCHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires SCCHA with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For SCCHA with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

SCCHA Policy

The SCCHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

SCCHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the SCCHA for good cause. The SCCHA will reinspect the unit within 5 business days but sooner if possible of the date the owner notifies the SCCHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any SCCHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the SCCHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The SCCHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

SCCHA Policy

Utility service must be operational at the time of the initial inspection.

Appliances

SCCHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the SCCHA will allow the appliance(s) to be placed in the unit after the unit has met all other HQS and program requirements. The HAP contract shall be prepared and mailed to the Owner for signature once the unit has met all other HQS requirements (and all other program requirements, such as but not limited Rent Reasonableness), along with a “Certification Regarding Family Supplied Appliances” to be signed by the Owner and Tenant and returned to SCCHA (with the HAP Contract and executed lease). The “Certification” shall state that the family supplied appliances have been placed in the unit and are operational. As long as the appliance(s) are placed in service and are operational within fourteen days of the date the unit otherwise passed inspection, the effective date of the HAP contract shall remain unchanged. If the family supplied appliances are not placed in service within fourteen days of the unit otherwise passing inspection, the effective date of the HAP contract shall be revised to the date the appliances are actually placed in service and are operational. The family shall be responsible for the full rent due the owner for the period the unit is not eligible for HAP subsidy because the family supplied appliances were not in service. SCCHA shall inspect the unit to confirm the appliances are in place and operational prior to the release of the initial HAP payment.

8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Generally, each unit under HAP contract will have an annual inspection no more than 12 months after the most recent inspection, however, SCCHA specifically reserves the right to inspect units biennially as permitted by federal regulation.

SCCHA Policy

If an adult family member or designee cannot be present on the scheduled date, the family must notify the SCCHA at least 24 hour in advance and request that the inspection be rescheduled. The inspection will generally be rescheduled within 10 business days of

the originally-scheduled date. The SCCHA may schedule an inspection more than 10 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the SCCHA will notify the family that a second inspection will not be scheduled until/unless the family makes contact with the SCCHA Inspector assigned to the inspection. Notification will be made in writing . . . generally by leaving a “door hanger” notice at the residence at the time of the first inspection attempt and by following up with a letter mailed to the family. As stated in the notice(s) the family must make contact with SCCHA inspector within 10 days to reschedule the inspection. If the family misses two scheduled inspections without SCCHA approval or fails to contact the SCCHA Inspector within 10 days after a missed inspection, the SCCHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]

The SCCHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

SCCHA Policy

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

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

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

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

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

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

Notification of Corrective Actions

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

SCCHA Policy

When life threatening conditions are identified, the SCCHA will immediately notify both parties by personal contact, phone, fax, or e-mail. When contact is made personally or by

phone (including voice mail message) a letter should also be mailed to the owner and family. The notice (all forms) will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the SCCHA's notice.

When failures that are not life threatening are identified, the SCCHA will send the owner and the family a written notification of the inspection results generally within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

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

Extensions

For conditions that are life-threatening, the SCCHA cannot grant an extension to the 24 hour corrective action period. While the life-threatening condition must be alerted within 24 hours, it is understood that full repair of the condition may in some instances take longer to complete (e.g. In the case of a broken window glass that is considered life threatening, the life-threatening condition may be abated by removal of the glass and temporarily covering the opening with full replacement being completed within a reasonable time period). For conditions that are not life-threatening, the SCCHA may grant an exception to the required time frames for correcting the violation, if the SCCHA determines that an extension is appropriate [24 CFR 982.404].

SCCHA Policy

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

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 30 calendar days, once the weather conditions have subsided.

Reinspections

SCCHA Policy

The SCCHA will conduct a reinspection promptly following the end of the corrective period or any SCCHA approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the SCCHA may at its discretion and with good cause grant an extension as outlined above or send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with SCCHA policies. If the SCCHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the SCCHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

Owner / Tenant Self-Certifications

With each notification letter mailed to the Owner and Tenant listing the HQS violations / deficiencies noted during the annual or other inspection / re-inspection of the unit a 'Housing Quality Standards (HQS) Repair Self-Certification' form shall be included. Upon completion of the necessary repairs, the owner and tenant are to sign and return the certification to SCCHA. If the signed self-certification is not received by SCCHA within the time frame specified in the notification letter, the matter shall be handled in accordance with the provisions of the paragraphs headed as 'Extensions' and/or 'HAP Abatement.' Upon receipt of the self-certification form, the SCCHA Inspection Manager shall determine whether the conditions warrant a follow-up inspection of the unit. Any and all major / significant repairs shall trigger a follow-up inspection. The self-certification may be, but will not always be, accepted as verification of completion of the repairs depending upon the severity of the corrections needed and/or SCCHA's experience with the owner and property. The date the unit "passed" inspection shall be either the date the self-certification was received and accepted by SCCHA as verification of completion of the repairs or the date of the actual follow-up inspection.

As it does for all initial inspections, in the case of project-based vouchers, the SCCHA shall always conduct a follow-up inspection to determine if the HQS deficiency is corrected pursuant to 24 CFR 983.103(e)(2).

8-II.G. ENFORCING OWNER COMPLIANCE

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

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the SCCHA, HUD requires the SCCHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No

retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

SCCHA Policy

The SCCHA will make all HAP abatements effective the first of the month following the expiration of the SCCHA specified correction period (including any extension).

The SCCHA will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

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

HAP Contract Termination

The SCCHA must decide how long any abatement period will continue before the HAP contract will be terminated. The SCCHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The SCCHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

SCCHA Policy

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the SCCHA before the termination date of the HAP contract, the SCCHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the SCCHA is 30 days.

If a family remains in the unit after HAP contract termination, the family is responsible for the full monthly rental amount.

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

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

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

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

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

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

PHA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

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

Owner-initiated Rent Determinations

The SCCHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

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

SCCHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the SCCHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the SCCHA will consider unit size and length of tenancy in the other units.

The SCCHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

The effective date of all approved rent adjustments will generally be tied to the family's annual recertification; however, SCCHA at its discretion may make the increase effective date other than the family's annual recertification date. In such case, the effect date will be the first of the month following 60 days after the SCCHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

SCCHA and HUD Initiated Rent Reasonableness Determinations

HUD requires the SCCHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the SCCHA to make a determination at any other time. The SCCHA may decide that a new determination of rent reasonableness is needed at any time.

SCCHA Policy

In addition to the instances described above, the SCCHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the SCCHA determines that the initial rent reasonableness determination was in error; (2) the SCCHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect; (3) there has been a substantial decline in the market value of the unit resulting from the owner's failure to maintain physical conditions.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

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

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

Units that Must Not be Used as Comparables

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

assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent controlled by local ordinance.

Rents Charged for Other Units on the Premises

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

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

8-III.D. SCCHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

SCCHA Policy

The SCCHA will collect and maintain data on market rents in the SCCHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners, and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

SCCHA Policy

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

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

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

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

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

The SCCHA will notify the owner of the rent the SCCHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The SCCHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the SCCHA's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one operable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children less than six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

Carbon Monoxide Detectors

Carbon monoxide detectors (CMD) must be installed in accordance with Illinois State Statute. In addition, SCCHA policy is to require a CMD in the basement area of any dwelling which is otherwise required to have a CMD. This policy is based upon the fact that when there is a basement, the gas appliances (furnace and/or water heater) are usually located in the basement and past experience demonstrates that whether or not a basement is finished, it is commonly used for sleeping by household members and/or guests.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY STANDARDS

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and legal requirements related to smoke detectors and carbon monoxide detectors.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the SCCHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the SCCHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the SCCHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the SCCHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The SCCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The SCCHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the SCCHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before SCCHA approval of the tenancy, the SCCHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The SCCHA must also inform the owner or manager of their responsibility to comply with VAWA. [Pub.L. 109-162]

The SCCHA must provide the owner with the family's current and prior address (as shown in the SCCHA records) and the name and address (if known to the SCCHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The SCCHA is permitted, but not required, to offer the owner other information in the SCCHA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The SCCHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

SCCHA Policy

The SCCHA will screen applicants for family behavior or suitability for tenancy as stated in Chapter 3.

The SCCHA shall provide additional screening information to a prospective owner upon request and with a release of information authorization signed by the family (e.g. head of household).

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the SCCHA to approve the assisted tenancy in the selected unit.

The owner and the family must at minimum submit the following to the SCCHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A
- Certificate of compliance for the appropriate jurisdiction, if applicable, evidencing that the unit meets local housing ordinance requirements.
- Owner information form

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the SCCHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the SCCHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

SCCHA Policy

The RTA must be signed by both the family and the owner.

The RTA is generally submitted to SCCHA by the family although the owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in person, by mail, or by fax.

The family may not submit, and the SCCHA will not process, more than one (1) RTA at a time.

When the family submits the RTA the SCCHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the SCCHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in person, by mail, or by fax. The SCCHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the SCCHA will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the SCCHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in person, by mail, or by fax. The SCCHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the SCCHA will attempt to communicate with the owner and family by phone, fax, or e-mail. The SCCHA will use mail when the parties can't be reached by phone, fax, or e-mail.

9-I.C. OWNER PARTICIPATION

The SCCHA does not formally approve an owner to participate in the HCV program; however, there are a number of criteria where the SCCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the SCCHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The SCCHA may **not** assist a unit under the voucher program if the unit is a:

- Public housing or Indian housing unit
- Unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f)
- Nursing home, board and care home, or facility providing continual psychiatric, medical, or nursing services
- College or other school dormitories
- Unit on the grounds of penal, reformatory, medical, mental, and similar public or private institutions
- Unit occupied by its owner or by a person with any interest in the unit.

SCCHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the SCCHA and the SCHHA is issuing the voucher may also be leased in the voucher program. In order for a SCCHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing. The SCCHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a SCCHA-owned unit without any pressure or steering by the SCCHA.

SCCHA Policy

The SCCHA does not have any eligible SCCHA-owned units available for leasing under the voucher program.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the SCCHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include:

- Single room occupancy (SRO) housing
- Congregate housing
- Group home
- Shared housing
- Manufactured home space (where the family owns the manufactured home and leases only the space)
- Cooperative housing and homeownership option

See Chapter 15 for specific information and policies on any of these housing types that the SCCHA has chosen to allow.

The regulations do require the SCCHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance
- Other Section 8 assistance (including other tenant-based assistance)
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974)
- Section 101 rent supplements
- Section 236 rental assistance payments
- Tenant-based assistance under the HOME Program
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration)
- Any local or State rent subsidy
- Section 202 supportive housing for the elderly
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance)
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD

For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)] and any applicable local housing ordinance. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent, and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the SCCHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the SCCCHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

SCCHA Policy

The SCCCHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for one (1) year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the SCCCHA to approve a shorter initial lease term if certain conditions are met.

SCCHA Policy

The SCCCHA will not approve an initial lease term of less than nor more than a one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The SCCCHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The SCCCHA may prohibit security deposits in excess of private market practice or in excess of amounts charged by the owner to

unassisted tenants. However, if the SCCHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

SCCHA Policy

The SCCHA will allow the owner to collect any security deposit amount the owner determines is appropriate; therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the SCCHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

SCCHA Policy

The SCCHA permits owners and families to execute separate non-lease agreements for services, appliances (other than range and refrigerator), and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances, or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent or for items, appliances, or services customarily provided to unassisted families as part of the dwelling lease for those families are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance, or service, may be included in a separate non-lease agreement between the owner and the family. SCCHA must be provided a copy of any such agreement executed between the family and the owner.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances, or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

SCCHA Review of Lease

The SCCHA will review the dwelling lease for compliance with all applicable requirements.

SCCHA Policy

If the dwelling lease is incomplete or incorrect, the SCCHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in person, by mail, or by fax. The SCCHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time sensitive, the SCCHA will attempt to communicate with the owner and family by phone, fax, or e-mail. The SCCHA will use mail when the parties can't be reached by phone, fax, or e-mail.

The SCCHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the SCCHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

SCCHA Policy

The SCCHA will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the SCCHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the SCCHA must ensure that all required actions and determinations (discussed in Part I of this chapter) have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the SCCHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the SCCHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

SCCHA Policy

The SCCHA will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason (including but not limited to negotiation with the SCCHA), the SCCHA will obtain corrected copies of the RTA and proposed lease signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in person, by mail, or by fax. The SCCHA will not accept corrections over the phone.

If the SCCHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for

disapproval. The SCCHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the SCCHA will attempt to negotiate the rent with the owner. If a new approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the SCCHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the SCCHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the SCCHA has given approval for the family of the assisted tenancy, the owner and the SCCHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The SCCHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The SCCHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term; regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The SCCHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the SCCHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract) to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void and the SCCHA may not pay any housing assistance payment to the owner.

SCCHA Policy

Owners who have not previously participated in the HCV program must attend a meeting with the SCCHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. The SCCHA may waive this requirement on a case-by-case basis if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the SCCHA. The SCCHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the SCCHA will execute the HAP contract. The SCCHA will not execute the HAP contract until the owner has submitted IRS form W-9. The SCCHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the SCCHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally SCCHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the SCCHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the SCCHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The SCCHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

SCCHA Policy

Where the owner is requesting a rent increase, the SCCHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies the SCCHA of the rent change or on the date specified by the owner, whichever is later.

9-I.I. SPECIAL PROVISIONS APPLICABLE TO EMERGENCY HOUSING VOUCHERS (EHVs)

Under the EHV Program SCCHA was allocated a one-time “services fee” to support its efforts in implementing and operating an effective EHV services program that will best address the needs of EHV eligible individuals and families in its jurisdiction. The combined total of the services fees was available to the SCCHA to design a menu of services that will best address the leasing challenges faced by the EHV eligible families in the community served by SCCHA.

The services fees fall into four main components comprised of specific activities:

1. Housing Search Assistance;
2. Assistance and/or fees associated with Security Deposits / Utility Deposits or Arrears / Rental Applications / Holding Fee Uses;
3. Owner recruitment and outreach expenses and/or Owner incentive and/or retention payments;
4. Other eligible uses [such as moving expenses (including move-in fees and deposits), tenant-readiness services, essential household items, and renter’s insurance if required by the lease].

SCCHA will utilize the allocated service fees consistent with Notice PIH 2021-15 (HA) along with any other federal guidance provided and for the expressed purpose of benefiting the population targeted by the EHV Program.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and SCCHA policies governing moves within or outside the SCCHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the SCCHA's HCV program, whether the family moves to another unit within the SCCHA's jurisdiction or to a unit outside the SCCHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the SCCHA's jurisdiction. This part also covers the special responsibilities that the SCCHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the SCCHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The 'Violence Against Women's Act' as reauthorized in 2013 provides that participants who are victims of domestic violence, dating violence, sexual assault, or stalking may request an emergency transfer / move from the participant's current unit to another unit and requires a PHA to establish an Emergency Transfer / Move Plan. SCCHA's Emergency Transfer / Move Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking is contained in Exhibit #10-1 at the end of this chapter.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

SCCHA Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the SCCHA a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)] for reasons other than the family's failure to meet material lease obligations (e.g. payment of the family's portion of the rent, maintaining tenant-paid utilities, property damage beyond normal wear and tear, criminal activity, and/or disturbances) The family must give the SCCHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The SCCHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The SCCHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the SCCHA must issue the family a new voucher, and the family and SCCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the SCCHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the SCCHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which SCCHA may deny a family permission to move and two ways in which SCCHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the SCCHA to deny a family permission to move under the following conditions:

Insufficient Funding

The SCCHA may deny a family permission to move if the SCCHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

SCCHA Policy

The SCCHA will deny a family permission to move on grounds that the SCCHA does not have sufficient funding for continued assistance if: (a) the move is initiated by the family, not the owner or the SCCHA; (b) the SCCHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the SCCHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the SCCHA's jurisdiction as well as to moves outside it under portability.

Other Good Cause

The SCCHA may deny a family permission to move if the family is in violation of "Family Obligations" regarding payment of tenant-paid utility services under the lease.

SCCHA Policy

The SCCHA will require participating families desiring to move from one assisted location to another assisted location, including families wanting to port to another PHA's jurisdiction, to document that they are current on all tenant-paid utilities (as specified in the lease agreement) to be eligible to receive / be issued a Voucher and Landlord Packet to move. Staff will document that all utility services that can be charged to the owner if the tenant vacates with a balance owed (generally water, sewer, sewer treatment, and sometimes trash service) are current before the Voucher / Landlord Packet is issued. In terms of Ameren Illinois (and/or other electrical and/or gas service providers), the staff will confirm that the tenant is eligible to have utilities transferred to a new address in the service delivery area of the current provider, the staff will confirm that the bill is current, or there is an active payment agreement and the tenant is in good standing under the terms and conditions of the agreement before the Voucher / Landlord Packet is issued.

Grounds for Denial or Termination of Assistance

The SCCHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub.L. 109-162]

SCCHA Policy

If the SCCHA has grounds for denying or terminating a family's assistance, the SCCHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the SCCHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the SCCHA to prohibit more than one elective move by a participant family during any 12 month period.

SCCHA Policy

The SCCHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the SCCHA's jurisdiction or outside it under portability.

The SCCHA will also deny a family permission to make more than one elective move during any 12 month period. This policy applies to all assisted families residing in the SCCHA's jurisdiction.

The SCCHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (i.e., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (i.e., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the SCCHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the SCCHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the SCCHA's jurisdiction under portability, the notice to the SCCHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

SCCHA Policy

Upon receipt of a family's notification that it wishes to move, the SCCHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The SCCHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

SCCHA Policy

Within the constraints of the procedures and policies set forth in sections 10-I.A and 10-I.B, families may request a voucher be issued at any time, except that a voucher will not be issued after an annual or interim recertification process has been started. A family will be eligible to receive a voucher upon completion of the annual and/or interim recertification. Families are limited to receiving one voucher per continuously running

12 month period (e.g. if a voucher is issued January 15th of one year, the family will be eligible to receive a voucher January 15th of the next year, unless the family has leased-up and the initial term of the lease has not yet expired). SCCHA will consider exceptions to this policy for the following reasons: to protect the health or safety of a family member (e.g. lead paint hazards, domestic violence, witness protection programs, etc.); to accommodate a change in family circumstances (e.g. new employment, school attendance in distant area, etc.); to address an emergency situation over which the family has no control, and/or for the purposes for reasonable accommodation of a family member who is a person with disabilities.

If the family requests a voucher longer than 30 days after completion of the most recent interim or annual recertification, the family will be asked to confirm that there has been no change in family composition and no material changes in household income (material being defined as no more than \$200 per month) from the most recent recertification. SCCHA will review an updated EIV Report, TANF Verification, and any other readily available electronic verification to confirm the accuracy of the family declaration.

If there is no material change in household composition and no material change in household income, SCCHA will proceed with issuing the voucher using the household income as established in the most recent recertification (e.g. for the 30% and 40% of income determinations).

If the family reports a change in household income and/or a material change in household income, SCCHA will initiate an interim recertification and issuance of the voucher will be delayed until the interim recertification is completed.

For families moving into or families approved to move out of the SCCHA's jurisdiction under portability, the SCCHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

SCCHA Policy

For families approved to move to a new unit within the SCCHA's jurisdiction, the SCCHA will issue a new voucher within 10 business days of the SCCHA's written approval to move. No briefing is required for these families. The SCCHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the SCCHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the SCCHA's jurisdiction under portability, the SCCHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the SCCHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

SCCHA Policy

It is the policy of SCCHA to limit HAP overlap to 5 days. SCCHA will consider exceptions to this policy for the following reasons: to protect the health or safety of a family member (e.g. lead paint hazards, domestic violence, witness protection programs, etc.); to accommodate a change in family circumstances (e.g. new employment, school attendance in distant area, etc.); to address an emergency situation over which a family has no control, and/or for the purposes of reasonable accommodation of a family member who is a person with disabilities.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA**. The second is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The SCCHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, applicant families may qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

SCCHA Policy

In determining whether or not to deny an applicant family permission to move under portability because the SCCHA lacks sufficient funding or has grounds for denying assistance to the family, the SCCHA will follow the policies established in section 10-I.B of this chapter.

In addition, the SCCHA may establish a policy denying the right to portability to applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

SCCHA Policy

Families must live in the SCCHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The SCCHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2); however, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

Participant Families

SCCHA will not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

SCCHA Policy

The SCCHA will determine whether a participant family may move out of the SCCHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The SCCHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

SCCHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the SCCHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

SCCHA Policy

For a participant family approved to move out of its jurisdiction under portability, the SCCHA generally will conduct a reexamination of family income and composition only

if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The SCCHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the SCCHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

SCCHA Policy

No formal briefing will be required for a participant family wishing to move outside the SCCHA's jurisdiction under portability. However, the SCCHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The SCCHA will provide the name, address, and phone number of the contact for PHAs geographically adjacent to SCCHA. The participant is responsible for obtaining portability contact information for other PHAs. The SCCHA will advise the family that they will be under the receiving PHA's policies and procedures, including subsidy standards, and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the SCCHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

SCCHA Policy

For families approved to move under portability, the SCCHA will issue a new voucher within 10 business days of the SCCHA's written approval to move.

The initial term of the voucher will be no less than 60 days.

Voucher Extensions and Expiration

SCCHA Policy

The SCCHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the SCCHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

An applicant or participant family who was issued a voucher and was searching within the SCCHA jurisdiction must have at least thirty (30) days remaining on the voucher term to be eligible to port to another jurisdiction.

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the SCCHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the SCCHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. SCCHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

SCCHA Policy

Because the portability process is time sensitive, the SCCHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The SCCHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and phone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The SCCHA will pass this information along to the family. The SCCHA will also ask for the name, address, phone number, fax and e-mail of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The SCCHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

SCCHA Policy

In addition to these documents, the SCCHA will provide additional file information upon the request of the receiving PHA.

Initial Billing Deadline [Notice PIH 2004-12]

When the SCCHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the SCCHA. If the SCCHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it will contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the SCCHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the SCCHA will accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

SCCHA Policy

If the SCCHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail promptly thereafter. If the PHA reports that the family is not yet under HAP contract, the SCCHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The SCCHA will send the receiving PHA a written confirmation of its decision by mail.

The SCCHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family's voucher, the SCCHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the SCCHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The SCCHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. SCCHA will manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

SCCHA Policy

The SCCHA will process portability payments in a manner that ensures that the payment is received within the regulatory requirements.

Annual Updates of Form HUD-50058

If the SCCHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the SCCHA fails to receive an updated 50058

by the family's annual reexamination date, the SCCHA will contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving SCCHA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The SCCHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

SCCHA Policy

If the SCCHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the SCCHA's jurisdiction.

The SCCHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving PHA's Jurisdiction [Notice PIH 2004-12]

If the SCCHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the SCCHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the SCCHA voucher necessary to allow the family additional search time to return to the SCCHA's jurisdiction or to move to another jurisdiction will be at the discretion of the SCCHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the SCCHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the SCCHA may act on those grounds at any time. (For PHA policies on denial and termination see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the SCCHA's jurisdiction under portability, the SCCHA will provide assistance for the family [24 CFR 982.355(10)].

SCCHA's procedures and preferences for selection among eligible applicants do not apply, and the SCCHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the SCCHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the SCCHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the SCCHA's jurisdiction under portability, the family is responsible for promptly contacting the SCCHA and complying with the SCCHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the SCCHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the SCCHA, it will promptly inform the initial PHA whether the SCCHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the SCCHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

SCCHA Policy

Within 10 business days after portable family requests assistance, the SCCHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the SCCHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the SCCHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

SCCHA Policy

The SCCHA will not require the family to attend a briefing. The SCCHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the SCCHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The SCCHA will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

HUD allows the SCCHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the SCCHA will may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The SCCHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

SCCHA Policy

For any family moving into its jurisdiction under portability, the SCCHA will conduct a new reexamination of family income and composition within 90 days of unit approval and HAP contract execution. SCCHA will not delay issuing the family a voucher for this reason. Nor will the SCCHA delay approving a unit for the family until the

reexamination process is complete unless the family is an applicant and the SCCHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the SCCHA will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

When a family moves into its jurisdiction under portability, the SCCHA will issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the SCCHA during the term of the SCCHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects SCCHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the SCCHA, and the family complies with the SCCHA's procedures [Notice PIH 2004-12].

SCCHA Policy

When a family ports into its jurisdiction, the SCCHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The SCCHA will update the family's information when verification has been completed.

Voucher Term

The term of the SCCHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

SCCHA Policy

The SCCHA's voucher will expire on the same date as the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The SCCHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the SCCHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

SCCHA Policy

The SCCHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the SCCHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-IE.G.

The SCCHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The SCCHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the SCCHA's voucher [24 CFR 982.355(c)(8)]. The SCCHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the SCCHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the SCCHA will refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the SCCHA's voucher is only valid for the family's search in the SCCHA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the SCCHA intends to administer the family's voucher, the SCCHA will submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the SCCHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the SCCHA will be attached to the initial billing notice. The SCCHA may send these documents by mail, fax, or e-mail.

SCCHA Policy

The SCCHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the SCCHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it will absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g. because the SCCHA is over leased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The SCCHA will send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

SCCHA Policy

The SCCHA will send a copy of the updated HUD-50058 by regular mail at the same time the SCCHA and owner are notified of the reexamination results.

Change in Billing Amount. The SCCHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the SCCHA will promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The SCCHA will send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the SCCHA. If the initial PHA fails to correct the problem by the second month following the notification, the SCCHA may request by memorandum to the director of the OPH with jurisdiction over the SCCHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The SCCHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the SCCHA.

Overpayments [Notice PIH 2004-12]

In all cases where the SCCHA has received billing payments for billing arrangements no longer in effect, the SCCHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the SCCHA failed to notify the initial PHA that the billing arrangement was terminated, the SCCHA will take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the SCCHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the SCCHA will be subject to the sanctions specified in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the SCCHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the SCCHA will provide adequate notice of the effective date to the initial SCCHA to avoid having to return a payment. In no event should the SCCHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

SCCHA Policy

If the SCCHA elects to deny or terminate assistance for a portable family, the SCCHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The SCCHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The SCCHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The SCCHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the SCCHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the SCCHA [24 CFR 982.201(b)(2)(vii)].

If the SCCHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the SCCHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The SCCHA will specify the effective date of the absorption of the family. [Notice PIH 2004-12]

SCCHA Policy

If the SCCHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the SCCHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the SCCHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the SCCHA's voucher program [24 CFR 982.355(d)], and the SCCHA becomes the initial PHA in any subsequent moves by the family under portability.

Exhibit #10-1
St. Clair County Housing Authority's (SCCHA's)
Section 8 Housing Choice Voucher Program's (HCVP's) Emergency Transfer / Move Plan
For Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers / Moves

The **St. Clair County Housing Authority (SCCHA)** is concerned about the safety of its Section 8 HCVP participants, and such concern extends to participants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),¹ SCCHA allows participants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer / move from the participant's current unit to another unit. The ability to request a transfer / move is available regardless of sex, gender identity, or sexual orientation.² The ability of SCCHA to honor such requests for participants currently receiving assistance, may depend upon a preliminary determination that the participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the participant meets or can meet other current SCCHA requirements regarding transfers / moves.

This plan identifies participants who are eligible for an emergency transfer / move, the documentation needed to request an emergency transfer / move, confidentiality protections, how an emergency transfer / move may occur, and guidance to participants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that **SCCHA's Section 8 HCVP is compliant** with VAWA.

Eligibility for Emergency Transfers / Moves

A participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer / move, if the participant reasonably believes that there is a threat of imminent harm from further violence if the participant remains within the same unit. If the participant is a victim of sexual assault, the participant may also be eligible to transfer / move if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer / move.

A participant requesting an emergency transfer / move must expressly request the transfer/ move in accordance with the procedures described in this plan.

¹ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Participants who are not in good standing may still request an emergency transfer / move if they meet the eligibility requirements in this section. However, being approved for an emergency transfer / move does not relieve the family of any financial obligations of the original lease.

Emergency Transfer / Move Request Documentation

To request an emergency transfer / move, the participant shall notify and submit a written request for an emergency transfer / move to the **Section 8 HCVP Director at SCCHA's Central Office located at 1790 South 74th St., Belleville, IL 62223**. SCCHA shall provide reasonable accommodations to this policy for individuals with disabilities.

The participant's written request for an emergency transfer / move should include either:

1. A statement expressing that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under SCCHA's program; OR
2. A statement that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the participant's request for an emergency transfer.

Confidentiality

SCCHA will keep confidential any information that the participant submits in requesting an emergency transfer / move and information about the emergency transfer / move, unless the participant gives SCCHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the participant (if the participant does transfer / moves to another unit) from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the participant. See the Notice of Occupancy Rights under the Violence Against Women Act For All Participants for more information about SCCHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer / Move Timing and Availability

SCCHA cannot guarantee that a transfer/ move request will be approved or how long it will take to process a transfer / move request. SCCHA will however, act as quickly as possible to issue a Section 8 HCVP Voucher to a participant who is a victim of domestic violence, dating violence, sexual assault, or stalking. If a participant reasonably believes a move to another unit within SCCHA's jurisdiction would not be safe, the participant may request that their voucher be approved for portability to the jurisdiction of another PHA where the participant believes she would be safe. If a participant determines that there are no safe and available units in SCCHA's jurisdiction and does not want to pursue portability at the time, the participant may request SCCHA assistance and SCCHA shall provide assistance in identifying other housing providers

who may have safe and available units to which the participant could move. At the participant's request, SCCCHA will also assist participants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Participants

Pending processing of the transfer / move request and the actual transfer / move, if it is approved and occurs, the participant is urged to take all reasonable precautions to be safe.

Participants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Participants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Participants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment - A list of local organizations that assist victims of domestic violence, dating violence, sexual assault, or stalking.

Attachment: Local Assistance Organizations

- Violence Prevention Center of Southwest Illinois – 618-236-2531
- Call for Help – 618-397-3076.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The SCCHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and SCCHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The SCCHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The SCCHA must establish a policy to ensure that the annual reexamination for each family is completed **within** a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

SCCHA Policy

The SCCHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the SCCHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

The SCCHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The SCCHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the SCCHA.

SCCHA Policy

Families generally are required to participate in an annual reexamination interview which must be attended by the head of household, spouse, cohead, and all other adult household members. If participation in an in-person interview poses a hardship because of a family member's disability or other special circumstance (e.g. away at college), the family should contact the SCCHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the SCCHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the SCCHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without SCCHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the SCCHA will execute a certification attesting to the role and assistance of any such third party.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the SCCHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

SCCHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a SCCHA designated reexamination form as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family may be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be reverified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit (with SCCHA approval - when applicable) causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the SCCHA will issue the family a new voucher, and the family and SCCHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the SCCHA will terminate the HAP contract in accordance with its terms [24 CFR 982.403].

II-I.C.1 Streamlined Annual Reexaminations for Fixed Sources of Incomes (Regulation: 24 CFR 960.257, 982.516).

The regulation offers PHAs the discretion to adopt a streamlined income determination for any family member with a fixed source of income. SCCHA reserves the right to use the streamlined income determination process at its sole discretion. When utilized, the process will be completed consistent with Exhibit #11-1, which is an excerpt from Notice PIH 2016-05, Subject: Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies.

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with SCCHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

SCCHA Policy

During the annual reexamination process, the SCCHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in [24 CFR 5.612] by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the SCCHA will process a reexamination in accordance with the policies in this chapter.

11-I.E. HOUSEHOLD MEMBER TURNING 18 BETWEEN WHEN THE REEXAMINATION DOCUMENTS ARE COMPLETED AND PROVIDED TO THE SCCHA AND THE EFFECTIVE DATE OF THE REEXAMINATION

SCCHA Policy

When a household member will turn 18 between the date of the reexamination documents are completed and the effective date of the reexamination, the PHA will have the parent / legal guardian sign any consent / release forms on behalf of that household member in order to authorize SCCHA to obtain their income verification. SCCHA shall include the member's income in the calculation of annual income, unless the income qualifies otherwise for exclusion.

Household Member Turning 18 Between Regular Reexaminations

If a household member turns 18 between regular reexaminations, the consent / release forms and other reexamination documents shall be completed at the next interim or

regular reexamination. The income of a household member turning 18 between regular reexaminations will not be applied until the next interim or regular reexamination, unless the household receives a monthly utility allowance payment (UAP). Under such circumstance, the family is obligated to report to SCCHA that the member has reached age 18 and an interim recertification shall be conducted.

11-I.F. EFFECTIVE DATES

The SCCHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

SCCHA Policy

In general, an **increase** in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the SCCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the SCCHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a **decrease** in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the SCCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the SCCHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to attend scheduled interview(s) and/or to provide information requested by the SCCHA by the date specified, and this delay prevents the SCCHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and SCCHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the SCCHA must process interim reexaminations to reflect those changes. HUD regulations also permit the SCCHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The SCCHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and SCCHA policies describing what changes families are required to report, what changes families may choose to report, and how the SCCHA will process both SCCHA and family initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The SCCHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the SCCHA has limited discretion in this area.

SCCHA Policy

The SCCHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require SCCHA approval. However, the family is required to promptly notify the SCCHA of the addition [24 CFR 982.551(h)(2)].

SCCHA Policy

The family must inform the SCCHA of the birth, adoption, or court-awarded custody of a child within thirty (30) calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request SCCHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the SCCHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the SCCHA will issue the family a new voucher, and the family and SCCHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the SCCHA will terminate the HAP contract in accordance with its terms [24 CFR 982.403].

SCCHA Policy

Families must request SCCHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the SCCHA prior to the individual moving in the unit.

The SCCHA will generally not approve the addition of a new household member that is not considered a “natural extension of the assisted family.” A “natural extension of the assisted family” includes, but is not necessarily limited to a spouse or partner (regardless of gender), child, or other new family members who do not require a request for approval (added by birth, adoption, or court-awarded custody). Examples of individuals that SCCHA will generally not approve as an addition to the household is an adult child of the head-of-household (or other household member) or other relative or non-relative person (adult or minor). Such persons are expected to apply for assistance through the waiting list process. In addition to other factors, SCCHA shall consider the need to increase the voucher size / subsidy standard of the assisted household when considering requests to add household members that require prior approval.

The SCCHA will not approve the addition of a new family or household member unless the individual meets the SCCHA’s eligibility criteria (see Chapter 3).

The SCCHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards and/or local housing ordinance.

If the SCCHA determines an individual meets the SCCHA’s eligibility criteria as defined in Chapter 3, the SCCHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards and/or housing codes, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the SCCHA determines that an individual does not meet the SCCHA’s eligibility criteria as defined in Chapter 3, the SCCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The SCCHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

Departure of a Family or Household Member

Families must promptly notify the SCCHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the SCCHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

SCCHA Policy

If a household member ceases to reside in the unit, the family must inform the SCCHA within 30 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the SCCHA within 30 business days.

The family must submit documentation determined satisfactory to SCCHA evidencing that the member no longer resides in the assisted unit (*e.g. documentation of another address at which the person resides such as a lease, utility bill, an occupancy permit, or as a last resort and in circumstances determined appropriate by SCCHA staff a government issued photo identification. Once an adult family or household member has been removed from the household, he/she shall generally not be subsequently approved as an addition to the household*).

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the SCCHA has reason to believe that changes in income or expenses may have occurred or because the family reports a change. When a family reports a change, the SCCHA may take different actions depending on whether the family reported the change voluntarily or because it was required to do so.

SCCHA Initiated Interim Reexaminations

SCCHA initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the SCCHA. They are not scheduled because of changes reported by the family.

SCCHA Policy

The SCCHA will conduct interim reexaminations in each of the following instances:

If the family has reported zero income, the SCCHA may conduct an interim reexamination up to every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income); the SCCHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the SCCHA will conduct an interim reexamination.

The SCCHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family Initiated Interim Reexaminations

The SCCHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the SCCHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

SCCHA Policy

Participants who receive a Utility Allowance Payment (UAP – SCCHA electronically deposits to the participant's bank account to assist with utilities) are required to report any increase in gross monthly income or decrease in allowable expense deductions (e.g. out-of-pocket child care costs and/or medical expenses) of \$200 or more between annual recertification.

Participants with a positive Tenant Rent (i.e. have a rent portion that they pay to the property owner) are required to report an increase in monthly household income of \$200 or more when:

- The increase is the result of a new benefit payment (i.e. Social Security, SSI, unemployment, TANF, General Assistance, Veteran's etc.)
- The increase in income could have been reasonably anticipated by the participant at the time of the recertification interview (i.e. seasonal/temporary employment assignments, pending application)
- If the participant previously requested an interim recertification due to a decrease in income
- When an increase in income (or decrease in deductions) is required to be reported, the change must be reported to SCCHA within 30 days of the effective date of the change (i.e. first day of a new job, date of benefit determination notice).

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The SCCHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

SCCHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the SCCHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the SCCHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time. In processing interim reexamination requests, SCCHA will make a determination/assessment if the reported circumstances, along with any further anticipated changes, indicate that there will be a material difference in the previously projected total annual household income and/or allowances and deductions. Material difference is defined as an annualized amount of \$2,400 or more. If available information indicates that there has been a material difference in projected total household income and/or allowances and deductions, an interim recertification will be completed. If it is determined that there is no material difference, the family will be notified of SCCHA's intent not to complete an interim recertification. The notice will provide the family with the opportunity to appeal in accordance with Chapter 16-III.

When a family can document an interruption of household income (beyond their control and due to no fault of their own) resulting in at least a 50% reduction in their regular monthly income, but would not otherwise qualify / justify completion of an interim recertification, the SCCHA has at its sole discretion the right, without completing a full interim recertification, to grant a “temporary rent adjustment” to reduce the tenant’s rent to an amount equal to 30% of the household’s temporary income amount (after deductions and utility allowance). The “temporary rent adjustment” will result in no less than a \$0.00 (zero) Tenant Rent (i.e. no utility allowance payment will be allowed). This alternative rent provision is limited to a maximum of two months during any twelve (12) month period.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

SCCHA Policy

The only acceptable method for reporting household information changes is on form(s) designated for this purpose, which are available at the SCCHA office. The form must be completed, signed, and dated by the Head of Household and receipt must be acknowledged by a SCCHA staff member's signature and date. This procedure is designed to protect families from adverse action resulting from staff determination that the family failed to report required changes.

Effective Dates

The SCCHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

SCCHA Policy

If the family share of the rent is to **increase**:

The increase generally will be effective on the first day of the month following 30 days' notice to the family.

If a family fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis.

If a family fails to report a change within the required time frames the increase will be applied retroactively to the first of the month following the effective date of the change.

When retroactive effective dates are applied, the family will be responsible for any overpaid subsidy and may be offered repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to **decrease**:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively. If the family causes a delay in processing the interim reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the SCCHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the SCCHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the SCCHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the SCCHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
 - If the payment standard amount has **increased**, the increased payment standard will be applied at the **first annual** reexamination following the effective date of the increase in the payment standard.
 - If the payment standard amount has **decreased**, the decreased payment standard will be applied at the **second annual** reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.
- If an interim recertification is completed the payment standard schedule applicable at the time of the family's last annual recertification will be applied.

Accommodation Payment Standards

Section 102(d) of HOTMA (Housing Opportunity Through Modernization Act of 2016) alls SCCHA to establish a payment standard of up to 120 percent of the FMR (Fair Market Rent) as a reasonable accommodation for a person with a disability, without HUD approval. It is noted that SCCHA may also establish an exception payment standard of more than 120 percent of the published FMR if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability, but in such cases must request approval from HUD.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the SCCHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's **first annual** reexamination following the change in family unit size. For example, a two-person family with a two bedroom subsidy standard reports that one person has permanently left the unit. The family retains the two bedroom payment standard (that was applied at last annual reexamination) until the next annual reexamination (at which time the voucher size and payment standard are reduced to a one bedroom).

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the SCCHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the SCCHA must use the utility allowances in effect at the time the new lease (or lease addendum) and HAP contract (or HAP contract amendment) are executed.

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

SCCHA Policy

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

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The SCCHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the contract rent to owner

The family must be given an opportunity for an informal hearing regarding the SCCHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

SCCHA Policy

The notice (or attachments thereto) to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

If the family disputes SCCHA's income projection and the projection is lowered, the case shall be flagged for follow-up monitoring to determine actual household income for the twelve month recertification period. If it is determined that actual income for the period exceeds the lower projection resulting from the family's dispute of the original projection, and the family did not subsequently report a change of income (i.e. increase), then the family shall be responsible for reimbursement of the overpaid HAP for the recertification period. The reimbursement shall be due and payable in lump sum amount within 60 days of the determination.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the SCCHA may discover that information previously reported by the family was in error or that the family intentionally misrepresented information. In addition, the SCCHA may discover errors made by the SCCHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 14.

Exhibit #11-1

Attachment D (from notice PIH 2016-05): Streamlined annual reexamination for fixed sources of income

Regulation: 24 CFR §§960.257, 982.516

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing

Description of change: This provision offers PHAs the discretion to adopt a streamlined income determination for any family member with a fixed source of income. Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, the PHA must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; PHAs must continue to conduct third-party verification of deductions.

For purposes of this Notice, the term “fixed-income” includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

This provision is available for program participants only and may be implemented at the family’s next annual reexamination following adoption of the provision in the PHA’s ACOP or Administrative Plan. The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously.

In the initial year of employing a streamlined income determination, a PHA must determine whether a source of income is fixed. A PHA may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. A PHA may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. A PHA must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, *third-party verification of all income amounts for all family members must be performed at least every three years*. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, the PHA would need to obtain third-party verification of *all* income amounts. This also means that if a family member with a fixed-income source is added to the family during year two, for example, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

Example: Streamlined income determination for program participant's first reexamination following PHA's adoption of provision

	Under previous regulation	Under this regulation
January 2016 — baseline year	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	(not yet implemented)
January 2017	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% non-fixed sources</p> <p>The PHA must compare the amount of income from the fixed sources to the amount generated during the prior year; if the amounts are the same or if they have changed only as a result of the application of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the amounts are fixed.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-provided, third-party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification</p>
January 2018	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify</p>	<p>Carl's income is reported to be 90% fixed sources and 10% non-fixed sources</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-</p>

	all income amounts using third-party verification.	provided, third-party generated documentation. The PHA must verify the non-fixed amounts using third-party verification
January 2019	Carl's income consists of 90% fixed sources and 10% non-fixed sources. The PHA must verify all income amounts using third-party verification.	Carl's income is reported to be 90% fixed sources and 10% non-fixed sources The PHA must verify all income amounts using third-party verification.

Background: Existing guidance (Notice PIH 2010–19) explains how to identify and verify existing sources of income using HUD's Enterprise Income Verification system. Non-fixed sources of income remain subject to full income-verification requirements. For example, if a family member has both fixed and non-fixed sources of income, this provision may be applied only to the fixed sources of income.

Mandatory or discretionary: Discretionary. Prior to adopting streamlined income determinations, PHAs must amend any policies governing income determinations to identify the sources of income that will be considered eligible for a streamlined income determination. Note: A PHA that adopts this provision must continue to obtain family member signatures on the consent forms required by 24 CFR 5.230, as if this provision had not been adopted.

Effective date: April 7, 2016

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a SCCHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the SCCHA based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the SCCHA may consider in lieu of termination, the criteria the SCCHA must use when deciding what action to take and the steps the SCCHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the SCCHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the SCCHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the SCCHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of SCCHA subsidy goes down. If the amount of HCV assistance provided by the SCCHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

SCCHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the SCCHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the SCCHA terminate the family's assistance at any time.

SCCHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or cohead. Before terminating the family's assistance, the SCCHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the SCCHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]

The SCCHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

SCCHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the SCCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in

Section 12-II.C and other factors as described in Sections 12-IE.G. Upon consideration of such alternatives and factors, the SCCHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, criminal activity, or nonpayment of and/or failure to maintain active utility services for which the family is responsible under the lease. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The SCCHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The SCCHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the SCCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

The SCCHA must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The SCCHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, the SCCHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in

accordance with program regulations and SCCHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the SCCHA to establish policies that permit the SCCHA to terminate assistance if the SCCHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

SCCHA Policy

The SCCHA will terminate a family's assistance if any household member is currently engaged in any illegal drug activity including either the use or sale of illegal drugs.

The SCCHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use/sale of illegal drugs during the previous six months.

The SCCHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use/sale of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the SCCHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the SCCHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

SCCHA Policy

The SCCHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related, violent, or other felony criminal activity including but not necessarily limited to, any criminal activity that disturbs the peaceful enjoyment of nearby households.

The SCCHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the SCCHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the SCCHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]

HUD permits the SCCHA to terminate assistance under a number of other circumstances. It is left to the discretion of the SCCHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits SCCHA from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

SCCHA Policy

The SCCHA **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related SCCHA policies.

- Any family member has been evicted from federally-assisted housing in the last five years.

- Any PHA has ever terminated assistance under the program for any member of the family.

- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

- The family currently owes rent or other amounts to any PHA or other federal housing program administrator in connection with the HCV, Certificate, Moderate Rehabilitation, public housing programs, or other federally assisted housing program.

- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the SCCHA.

A family member has engaged in or threatened violent or abusive behavior toward SCCHA personnel.

Abusive or violent behavior towards SCCHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

The family provides different and/or inconsistent information related to household income, family composition, place of residence, and/or any other material or significant information needed to accurately determine benefit / assistance levels to SCCHA and other local, State and/or federal entities.

In making its decision to terminate assistance, the SCCHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and Section 12-IE.G. Upon consideration of such alternatives and factors, the SCCHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The SCCHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

SCCHA Policy

If the family is absent from the unit for more than 60 consecutive calendar days, the family's assistance will be terminated unless a longer absence is approved by the SCCHA. In no case shall the approved absence exceed 180 days. Notice of termination will be sent in accordance with Section 12-IE.G.

Insufficient Funding [24 CFR 982.454]

The SCCHA may terminate HAP contracts if the SCCHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

SCCHA Policy

The SCCHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the SCCHA determines there is a shortage of funding, prior to terminating any HAP contracts, the SCCHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the SCCHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the SCCHA will inform the local HUD field office. The SCCHA will terminate the minimum number needed in order to reduce HAP costs to a level within the SCCHA's annual budget authority.

If the SCCHA must terminate HAP contracts due to insufficient funding, the SCCHA will do so based upon how long families have received assistance, with those families with the longest participation being terminated first. Excluding elderly households and households headed by a person with a disability, those households who have been receiving assistance the longest shall be terminated first.

Households terminated due to insufficient funding will be eligible for reinstatement when funds are available and before any new admissions from the waiting list.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The SCCHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the SCCHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the SCCHA may choose to take when it has discretion, and outlines the criteria the SCCHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the SCCHA terminates assistance depends upon individual circumstances. HUD permits the SCCHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the SCCHA may require that any household member who participated in or was responsible for an offense no longer reside in the unit [24 CFR 982.552(c)(2)(ii)].

SCCHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon SCCHA request.

Repayment of Family Debts

SCCHA Policy

If a family owes amounts to the SCCHA, as a condition of continued assistance, the SCCHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the SCCHA of the amount owed. See Chapter 16 for policies on repayment agreements.

Suspension of Benefits

SCCHA Policy

If a family has failed to meet "family obligations" as defined in the voucher and/or has violated program regulations and/or SCCHA policy, SCCHA may "suspend" housing assistance payments (HAP) for a period of one to three months depending upon the nature of the offense. The family will be issued written notice of any proposed

suspension of benefits and will be provided the opportunity for an in-formal hearing through the established process (See Chapter 16).

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the SCCHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

SCCHA Policy

The SCCHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

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

The SCCHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

SCCHA Policy

The SCCHA will consider the following factors when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

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

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

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

If the family includes a person with disabilities, the SCCHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

SCCHA Policy

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

Family Self-Sufficiency Program Participant Voucher Terminations

If a participant received a Section 8 HCVP Voucher as part of an inter-program transfer from the public housing program based upon their successful participation in the Family Self-Sufficiency Program and meaningful progress toward meeting the goals established in the Contract of Participation and/or Individual Training and Services Plan (ITSP) and is subsequently determined to have not met their Contract / ITSP goals, the participant's voucher may be terminated. In the event of voucher termination, the participant will be offered the opportunity to transfer back to the public housing program to the location from which they transferred. The participant may appeal the determination to terminate the voucher based upon unsuccessful performance in the FSS Program through the Procedures for Supervisory Reviews and Informal Hearings as outlined in Chapter 16, Part III.

12-ILE. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 109-162, Pub.L. 109-271]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives SCCHA the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the SCCHA to terminate the assistance of any participant if the SCCHA “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.”

Victim Documentation

SCCHA Policy

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person at the unit as a result of the participant’s occupancy and a participant or immediate family member of the participant’s family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking the SCCHA will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One or more of the following:

A police or court record documenting the actual or threatened abuse (includes but is not limited to restraining orders and/or orders of protection), or

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

The required certification and supporting documentation must be submitted to the SCCHA within 14 business days after the SCCHA issues their written request. The 14-day deadline may be extended at the SCCHA’s discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, the SCCHA may proceed with assistance termination.

The individual must take all actions within their control to prevent future incidents, including but not limited to cooperating with law enforcement, seeking court-issued orders of protection/restraining orders, and not granting the violator permission to visit the premises.

If the SCCHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant’s tenancy is not terminated, the SCCHA will bypass the standard process and proceed with the immediate termination of the family’s assistance.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the SCCHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” This authority supersedes any local, state, or other federal law to the contrary. However, if the SCCHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

SCCHA Policy

When the actions of a participant or other family member result in a SCCHA decision to terminate the family’s assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the SCCHA will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, the SCCHA will terminate the perpetrator’s assistance. If the victim does not provide the certification and supporting documentation, as required, the SCCHA will proceed with termination of the family’s assistance.

If the SCCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant’s tenancy is not terminated, the SCCHA will bypass the standard process and proceed with the immediate termination of the family’s assistance.

SCCHA Confidentiality Requirements

All information provided to the SCCHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family’s assistance is to be terminated, whether voluntarily or involuntarily, the SCCHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family’s right to an informal hearing as described in Chapter 16

If a criminal record is the basis of the termination, a copy of the record will be made available to the family and the subject of the record [24 CFR 982.553(d)].

SCCHA Policy

When termination is initiated by the SCCHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the SCCHA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the SCCHA learns the family has vacated the unit. If SCCHA learns the family vacated the unit and the owner knew or reasonably should have known the family vacated, the effective date of the termination shall be retroactive to the first day of the month following the month in which the family vacated. SCCHA shall seek to recover housing assistance payments (HAP) that are not due the owner because the family vacated the unit without notice through reimbursement from the owner and/or withholding of future HAP otherwise due the owner.

When a family requests to be terminated from the program they must do so in writing to the SCCHA (see section 12-I.C.). The SCCHA will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The SCCHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the SCCHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the SCCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

SCCHA Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the SCCHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. However, the SCCHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-IE.G.).

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the SCCHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the SCCHA a copy of any eviction notice (see Chapter 5).

SCCHA Policy

If the eviction action is finalized in court, the owner must provide the SCCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), Pub.L. 109-162]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (See Section 12-IE.G.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the SCCHA has no other grounds for termination of assistance, the SCCHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that the SCCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the SCCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition, this includes permitting the SCCHA to photograph all adult household members during the initial or any subsequent recertification period.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.

SCCHA Policy

It shall be considered a violation of Family Obligations if the family provides different and/or inconsistent information related to household income, family composition, place of residence, and/or any other material or significant information needed to accurately determine benefit / assistance levels to SCCHA and other local, State and/or federal assistance providers.

- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

SCCHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit. Damages and other unpaid obligation under the lease may result in termination of assistance.

- The family must allow the SCCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

SCCHA Policy

The SCCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the SCCHA and the owner before moving out of the unit or terminating the lease.

SCCHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the SCCHA at the same time the owner is notified.

- The family must promptly give the SCCHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the SCCHA. The family must promptly notify the SCCHA in writing of the birth, adoption, or court-award custody of a child. The family must request SCCHA approval to add any other family member as an occupant of the unit.

SCCHA Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The SCCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the SCCHA in writing if any family member no longer lives in the unit. Promptly is defined as no longer than 30 days after the family member has left the unit.
- If the SCCHA has given approval, a foster child or a live-in aide may reside in the unit. The SCCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when SCCHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

SCCHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the SCCHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the SCCHA when the family is absent from the unit.

SCCHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the SCCHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and SCCHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and SCCHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the SCCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the SCCHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the SCCHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including SCCHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

SCCHA is responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the SCCHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the SCCHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing, in the SCCHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, SCCHA must identify and recruit new owners to participate in the program.

SCCHA Policy

The SCCHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The SCCHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in person
- Holding owner recruitment/information meetings at least once a year
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the SCCHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

SCCHA Policy

All SCCHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The SCCHA will provide owners with a handbook that explains the program, including HUD and SCCHA policies and procedures, in easy-to-understand language.

The SCCHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated SCCHA contact person

Coordinating inspection and leasing activities between the SCCHA, the owner, and the family.

Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.

Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the SCCHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the SCCHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the SCCHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the SCCHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

SCCHA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the SCCHA. The SCCHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The SCCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See Chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the SCCHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The SCCHA will inspect the owner's dwelling unit at various stages of HCV program participation to ensure that the unit continues to meet HQS requirements. See Chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease up and throughout the family's tenancy.

The SCCHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability, and the rent reasonableness determination process.

At initial lease up of a unit, the SCCHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent, and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family; however, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See Chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The SCCHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See Chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this Chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, Pub.L. 109-162]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the SCCHA information required under the HAP contract

- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the SCCHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

The SCCHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the SCCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The SCCHA must not approve the assisted tenancy if the SCCHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the SCCHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The SCCHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The SCCHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The SCCHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the SCCHA (except a participant commissioner)
- Any employee of the SCCHA, or any contractor, subcontractor or agent of the SCCHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The SCCHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the SCCHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived
- Analysis of and statement of consistency with state and local laws. The local HUD office, the SCCHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained.
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program
- If the case involves employment of a family member by the SCCHA or assistance under the HCV program for an eligible SCCHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program
- If the case involves an investment on the part of a member, officer, or employee of the SCCHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the SCCHA has requested a conflict of interest waiver, the SCCHA may not execute the HAP contract until HUD has made a decision on the waiver request.

SCCHA Policy

In considering whether to request a conflict of interest waiver from HUD, the SCCHA will consider factors the reasons for waiving the requirement, consistency with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the SCCHA, at the SCCHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the SCCHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

SCCHA Policy

The SCCHA will refuse to approve a request for tenancy if the SCCHA becomes aware that any of the following are true:

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

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

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

The owner has a history or practice of noncompliance with the HQS for units leased under the tenant-based programs, with applicable housing standards for units leased with project-based Section 8 assistance, or leased under any other federal housing program.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) threatens the right to peaceful enjoyment of the premises by other residents; (ii) threatens the health or safety of other residents, of employees of the SCCHA, or of owner employees or other persons engaged in management of the housing; (iii) threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) is drug-related criminal activity or violent criminal activity.

The owner has a history or practice of renting units that fail to meet state or local housing codes.

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the SCCHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, abusive and/or inappropriate conduct on the part of the owner toward residents and/or SCCHA staff, among others. Upon consideration of such circumstances, the SCCHA may, on a case-by-case basis, choose to either approve or disapprove an owner.

Legal Ownership of Unit

The following represents SCCHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

SCCHA Policy

The SCCHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with any actions or responsibilities under the HCV program and the HAP contract with the SCCHA.

The owner must cooperate with the SCCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the SCCHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the SCCHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the SCCHA's obligations. Under the HAP contract, the SCCHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program and assistance to families that own a manufactured home and lease the space. See Chapter 15 for a discussion of any special housing types included in the SCCHA's HCV program.

If the SCCHA has given approval for the family of the assisted tenancy, the owner and the SCCHA execute the HAP contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, and signatures of SCCHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified; however, SCCHA does have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. SCCHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

In addition, SCCHA has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the SCCHA is deemed received by the owner (e.g., upon mailing by the SCCHA or actual receipt by the owner).

SCCHA Policy

The SCCHA has not adopted a policy that defines when the housing assistance payment by the SCCHA is deemed received by the owner; therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- SCCHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- SCCHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household as approved by the SCCHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the SCCHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP contract. The SCCHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term and only while the family is residing in the unit.

The monthly HAP payment by the SCCHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant plus the SCCHA HAP payment should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment and the SCCHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate nonlease agreements for services, appliances, and other items that are not included in the lease.

If the owner receives any excess HAP from the SCCHA, the excess amount must be returned immediately. If the SCCHA determines that the owner is not entitled to all or a portion of the HAP, the SCCHA may deduct the amount of overpayment from any amounts due to the owner including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Form of HAP Contract Payment

SCCHA reserves the right to make housing assistance payments (HAP) in the form it chooses, including check or electronic transfer (ACH). If an owner refuses to accept payment in the form selected by SCCHA, the HAP contract may be terminated with a minimum of 30-day notice to the owner and participating family.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By accepting payment from the SCCHA the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The SCCHA is responsible for making HAP payments promptly when due to the owner in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term the HAP contract provides for penalties if the SCCHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The SCCHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the SCCHA's control. In addition, late payment penalties are not required if the SCCHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

SCCHA Policy

The SCCHA shall not pay penalties for late HAP payments.

Termination of HAP Payments [24 CFR 982.311(b)]

The SCCHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the SCCHA 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.

SCCHA Policy

The owner must inform the SCCHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the SCCHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the SCCHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the SCCHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the SCCHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with the mortgage or loan

- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the SCCHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The SCCHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment, or termination the HAP contract. The SCCHA may also obtain additional relief by judicial order or action.

The SCCHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The SCCHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

SCCHA Policy

Before the SCCHA invokes a remedy against an owner, the SCCHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the SCCHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the SCCHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance, and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2), beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease
- The lease expires
- The SCCHA terminates the HAP contract
- The SCCHA terminates assistance for the family
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the SCCHA made the last housing assistance payment to the owner
- The family is absent from the unit for longer than the maximum period permitted by the SCCHA

- The Annual Contributions Contract (ACC) between the SCCHA and HUD expires
- The SCCHA elects to terminate the HAP contract

SCCHA Policy

The SCCHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see Chapter 8;

The family breaks up [HUD Form 52641] – see Chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the SCCHA terminates the HAP contract, the SCCHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

SCCHA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the SCCHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the SCCHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP/ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the SCCHA.

An owner under a HAP contract must notify the SCCHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the SCCHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the SCCHA finds acceptable. The new owner must provide the SCCHA with a copy of the executed agreement.

SCCHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The SCCHA must receive a signed written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

If the old owner refuses to comply with the stated provisions, SCCHA will have the discretion whether or not to assign the HAP contract.

Within 10 business days of receiving the owner's request, the SCCHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the SCCHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed

- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner

- The effective date of the HAP contract assignment

- A written agreement to comply with the terms of the HAP contract

- Confirmation that the new owner is not a prohibited relative

If the new owner does not agree to an assignment of the HAP contract or fails to provide the necessary documents, the SCCHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the SCCHA will process the leasing in accordance with the policies in Chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The SCCHA is committed to ensuring that subsidy funds made available to the SCCHA are spent in accordance with HUD requirements.

This chapter covers HUD and SCCHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents SCCHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the SCCHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

SCCHA Policy

The SCCHA anticipates that the vast majority of families, owners, and SCCHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the SCCHA's HCV program is administered effectively and according to the highest ethical and legal standards, the SCCHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The SCCHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The SCCHA will provide each applicant and participant with the publication entitled *Things You Should Know (HUD-1140-OIG)*. It explains the types of actions a family must avoid and the penalties for program abuse.

The SCCHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key SCCHA forms and form letters that request information from a family or owner.

SCCHA staff will be required to review and explain the contents of all HUD- and SCCHA required forms prior to requesting family member signatures.

The SCCHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The SCCHA will provide each SCCHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the SCCHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the SCCHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

SCCHA Policy

In addition to the SEMAP quality control requirements, the SCCHA will employ a variety of methods to detect errors and program abuse.

The SCCHA routinely will use available sources of up-front income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of SCCHA activities and notifies the SCCHA of errors and potential cases of program abuse.

SCCHA Policy

The SCCHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the SCCHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

SCCHA Policy

The SCCHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the SCCHA Will Investigate

SCCHA Policy

The SCCHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the SCCHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The SCCHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The SCCHA may investigate possible instances of error or abuse using all available SCCHA and public records. If necessary, the SCCHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

SCCHA Policy

The SCCHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the SCCHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the SCCHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the SCCHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

SCCHA Policy

In the case of family-caused errors or program abuse, the SCCHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the SCCHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

SCCHA Policy

The SCCHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the SCCHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER OR OVERPAYMENTS

A subsidy under or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the SCCHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

SCCHA Policy

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the SCCHA or the SCCHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the SCCHA to use incorrect information provided by a third party.

Family Reimbursement to SCCHA [HCV GB pp. 22-12 to 22-13]

SCCHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The SCCHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the SCCHA will terminate the family's assistance in accordance with the policies in Chapter 12.

SCCHA Reimbursement to Family [HCV GB p. 22-12]

SCCHA Policy

The SCCHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the SCCHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

SCCHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the SCCHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the SCCHA Board of Commissioners, employees, contractors, or other SCCHA representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the SCCHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (i.e. income, family composition)

Omitted facts that were obviously known by a family member (i.e. not reporting employment income)

Admission of program abuse by an adult family member

The SCCHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the SCCHA may, at its discretion, impose any of the following remedies.

- The SCCHA may require the family to repay excess subsidy amounts paid by the SCCHA, as described earlier in this section.
- The SCCHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).

- The SCCHA may deny, suspend, or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The SCCHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (i.e. the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the SCCHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the SCCHA any excess subsidy received. The SCCHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the SCCHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

SCCHA Policy

In cases where the owner has received excess subsidy, the SCCHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the SCCHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

SCCHA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the SCCHA

Charging a security deposit other than that specified in the family's lease

Charging the family for services that are provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the SCCHA Board of Commissioners, employees, contractors, or other SCCHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the SCCHA

Residing in the unit with an assisted family

Renting a unit to an assisted family that is a relative as defined in Chapter 13-I.D.

Remedies and Penalties

When the SCCHA determines that the owner has committed program abuse, the SCCHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16
- Terminate the HAP contract (See Chapter 13)
- Bar the owner from future participation in any SCCHA programs
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. SCCHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of SCCHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a SCCHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the SCCHA personnel policy.

SCCHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the SCCHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by SCCHA staff [HCV GB. 22-12].

SCCHA Reimbursement to Family or Owner

The SCCHA must reimburse a family for any underpayment of subsidy regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the SCCHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

SCCHA Policy

Any of the following will be considered evidence of program abuse by SCCHA staff:

Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the SCCHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of SCCHA activities, policies, or practices

Misappropriating or misusing HCV funds

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

SCCHA Policy

When the SCCHA determines that program abuse by an owner, family, or SCCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the SCCHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The SCCHA may retain a portion of program fraud losses that the SCCHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The SCCHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. [24 CFR 792.202] permits the SCCHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the SCCHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in [24 CFR 982.555].

If HUD incurs costs on behalf of the SCCHA related to the collection, these costs must be deducted from the amount retained by the SCCHA.

SCCHA reserves the right to use all means available to collect the amount due, including, but not limited to, any or all of the following:

- Reporting the balance due to credit bureau(s);
- Turn the account over to a third-party collection agency;
- Report the amount due to HUD using HUD's electronic "Debts Owed" system;
- Legal filing in small claims court for judgment and/or wage garnishment purposes;
- Reporting to the Illinois Comptroller as provided under the Local Debt Recovery Program (LDRP) for the purpose of potentially intercepting any funds due to the person by the State of Illinois, such as, but not limited to a State Income Tax Return.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The SCCHA may permit a family to use any of the special housing types discussed in this chapter. However, the SCCHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that SCCHA must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The SCCHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

SCCHA Policy

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero bedroom payment standard amount on the SCCCHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- **Access:** Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by state or local law.
- **Fire Safety:** All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

Sanitary Facilities: At least one flush toilet that can be used in privacy, a lavatory basin, and and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

- **Space and Security:** An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom, and bathroom. Food service for residents must be provided.

If approved by the SCCHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The SCCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the SCCHA must use the payment standard for a zero bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the SCCHA must use the one bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the SCCHA, a live-in aide may live in the group home with a person with disabilities. The SCCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero or one bedroom, depending on the SCCHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the group home size. The pro rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro rata portion of the reasonable rent for the group home. In determining reasonable rent, the SCCHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- **Sanitary Facilities:** A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- **Food Preparation and Service:** Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- **Space and Security:** Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- **Structure and Material:** To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- **Site and Neighborhood:** Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Instability
 - Flooding, poor drainage
 - Septic tank back ups
 - Sewage hazards
 - Mud slides
 - Abnormal air pollution
 - Smoke or dust
 - Excessive noise
 - Vibrations or vehicular traffic
 - Excessive accumulations of trash
 - Vermin or rodent infestation
 - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the SCCHA, a live-in aide may reside with the family to care for a person with disabilities. The SCCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the shared housing unit size.

The pro rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the pro rata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the SCCHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The SCCHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- **Facilities Available for the Family:** Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

- **Space and Security:** The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A zero bedroom or one bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis and designed for use as a principal place of residence. HCV assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the SCCHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. SCCHA may, but is not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a two bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The SCCHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

The SCCHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the SCCCHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The SCCCHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The SCCHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance SCCHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. SCCHA may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If SCCHA offers both forms of assistance, a family must choose which form of assistance to receive.

The SCCHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the SCCHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The SCCHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The SCCHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the SCCHA has otherwise opted not to implement a homeownership program.

The SCCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The SCCHA may also establish additional initial requirements as long as they are described in the SCCHA administrative plan.

- The family must have been admitted to the HCV program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the federal minimum income requirement. The family must have a gross annual income equal to the federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The SCCHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the SCCHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been prequalified or preapproved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.

- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the SCCHA must grant an exemption from the employment requirement if the SCCHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.

Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

The SCCHA will impose the following additional initial requirements:

The family has had no family-caused violations of HUD's housing quality standards within the last year.

The family has not committed any serious or repeated violations of an SCCHA assisted lease with the past year.

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the SCCHA may limit homeownership assistance to families or purposes defined by the SCCHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the SCCHA administrative plan.

If the SCCHA limits the number of families that may participate in the homeownership option, the SCCHA must establish a system by which to select families to participate.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the SCCHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:

- A public housing or Indian housing unit
 - A unit receiving Section 8 project-based assistance
 - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services
 - A college or other school dormitory
 - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions
- The unit must be under construction or already exist at the time the family enters into the contract of sale
 - The unit must be a one unit property or a single dwelling unit in a cooperative or condominium
 - The unit must have been inspected by the SCCHA and by an independent inspector designated by the family
 - The unit must meet Housing Quality Standards (see Chapter 8)
 - For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years

For SCCHA owned units all of the following conditions must be satisfied:

The SCCHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a SCCHA owned unit is freely selected by the family without SCCHA pressure or steering;

The unit is not ineligible housing;

The SCCHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any SCCHA provided financing. All of these actions must be completed in accordance with program requirements.

The SCCHA must not approve the unit if the SCCHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL SCCHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The SCCHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the SCCHA, the SCCHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the SCCHA. HUD suggests the following topics for the SCCHA required pre-assistance counseling:

- Home maintenance (including care of the grounds)
- Budgeting and money management
- Credit counseling
- How to negotiate the purchase price of a home
- How to obtain homeownership financing and loan preapprovals, including a description of types of financing that may be available, and the pros and cons of different types of financing
- How to find a home, including information about homeownership opportunities, schools, and transportation in the SCCHA jurisdiction
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions

The SCCHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families

The SCCHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the SCCHA offers a program of ongoing counseling for participants in the homeownership option, the SCCHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the SCCHA does not use a HUD approved housing counseling agency to provide the counseling, the SCCHA should ensure that its counseling program is consistent with the counseling provided under HUD's housing counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND SCCHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The SCCHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the SCCHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The SCCHA may not require the family to use an independent inspector selected by the SCCHA. The independent inspector may not be a SCCHA employee or contractor, or other person under control of the SCCHA. However, the SCCHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The SCCHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the SCCHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a prepurchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the SCCHA may deny approval of a seller for the same reasons a SCCHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The SCCHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The SCCHA must establish policies describing these requirements in the administrative plan.

SCCHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the SCCHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the SCCHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the SCCHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the SCCHA or HUD concerning mortgage financing or refinancing, sale, or transfer of any interest in the home, or homeownership expenses.
- The family must notify the SCCHA before moving out of the home.
- The family must notify the SCCHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the SCCHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the HCV program.

The SCCHA may pay the homeownership assistance payments directly to the family, or at the SCCHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the SCCHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a SCCHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The SCCHA must adopt policies for determining the amount of homeownership expenses to be allowed by the SCCHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the SCCHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The SCCHA allowance for maintenance expenses; The maintenance expense allowance is currently established at \$80 per month and is subject to review and revision annually depending upon a variety of factors, including, but not limited to the number of homeownership units and the age and size of the unit;

- The SCCHA allowance for costs of major repairs and replacements; The monthly allowance for major repairs and replacements is currently established at \$50 and is subject to review and revision annually;
- The SCCHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the SCCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the SCCHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The SCCHA allowance for maintenance expenses;
- The SCCHA allowance for costs of major repairs and replacements;
- The SCCHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the SCCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VIII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and SCCHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the SCCHA.

The family must attend any briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the SCCHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the SCCHA and/or the receiving PHA, as applicable.

15-VII.M. ADDITIONAL SCCHA REQUIREMENTS

SCCHA requires the following for continuation of homeownership assistance on behalf of the participating family.

1. The “assisted unit” is subject to annual inspection.
2. The “assisted unit” must pass minimum Housing Quality Standards (or other standard that HUD adopts and applies to the Section 8 Housing Choice Voucher Program).\
3. It is the participating family’s responsibility to complete the repairs / improvements necessary to ensure compliance with HQS or other applicable inspection standards. The participating family may obtain financial assistance from other sources for which they are determined eligible to cover some or portions of the repair / improvement costs, as available.
4. The assistance payments on behalf of the family are subject to termination if the unit does not pass inspection, after proper notice is given to the family of the needed repairs / improvements.
5. The participating family must remain current with their portion of the mortgage payment. The participating family may obtain financial assistance from other sources for which they are determined eligible to avoid or cure mortgage payment delinquency.
6. The assistance payments on behalf of the family are subject to termination, after proper notice is given to the family, if the family’s portion of the monthly mortgage is not paid and the family is in default under the terms and conditions of the mortgage agreement.
7. The family must provide to SCCHA on a timely basis (within 30 days or less of receipt) a copy of any mortgage default notice or other notice received from the lender or local entity which threatens the continued right to occupy the property (such as, but not limited to, a notice of non-compliance of occupancy or housing ordinance issued by the local municipality).

15-VII.N. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The SCCHA may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.

- At any time, the SCCHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the SCCHA's policy regarding number of moves within a 12 month period.

The SCCHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.O. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the SCCHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The SCCHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

The SCCHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the SCCHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the SCCHA. This part describes policies for recovery of monies that the SCCHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the SCCHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a SCCHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the SCCHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the SCCHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six (6) years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the SCCHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The SCCHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a SCCHA fiscal year. If funds in the administrative fee reserve are not needed to cover SCCHA administrative expenses, the SCCHA may use these funds for other housing purposes permitted by federal, state, and local law.

If the SCCHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the SCCHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the SCCHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

SCCHA Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable federal requirements and all applicable policies adopted by the SCCHA's Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the SCCHA to adapt the program to local conditions. This part discusses how the SCCHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- **Payment Standards**, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- **Utility Allowances**, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

SCCHA Policy

Copies of the payment standard and utility allowance schedules are available for review in the SCCHA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The SCCHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the SCCHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The SCCHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the SCCHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the SCCHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the SCCHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the SCCHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the SCCHA to make further adjustments if it determines that rent burdens for assisted families in the SCCHA's jurisdiction are unacceptably high [24 CFR 982.503(g)].

SCCHA Policy

The SCCHA will review the appropriateness of the payment standards at least annually when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range” the SCCHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The SCCHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The SCCHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the SCCHA will consider increasing the payment standard. In evaluating rent burdens, the SCCHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The SCCHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the midrange of the market.

Changes in Rent to Owner: The SCCHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The SCCHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The SCCHA will consider the number of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will generally be effective on December 1st of every year, although SCCHA specifically reserves the discretion to make changes in the payment standard schedule effective at other times. If it is determined that one or more of the current payment standard amounts will be outside the basic range when the final FMRs are published, the SCCHA’s payment standards will be effective consistent with the effective date of the FMRs.

If the SCCHA has already processed reexaminations that will be effective on or after the effective date of the payment standards, the SCCHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the SCCHA at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The SCCHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any SCCHA with jurisdiction in the exception area may use the HUD approved exception payment standard amount. The total population of all HUD approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the SCCHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the SCCHA's payment standard schedule.

When needed as a reasonable accommodation, the SCCHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The SCCHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

SCCHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the SCCHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the SCCHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the SCCHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the SCCHA must demonstrate that during the most recent 6 month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The SCCHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and

- The SCCHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the SCCHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the SCCHA's jurisdiction within the FMR area.

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

The SCCHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A SCCHA established utility allowance schedule is used in determining family share and SCCHA subsidy. The SCCHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the SCCHA must use normal patterns of consumption for the community as a whole and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the SCCHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

In determining unit size (i.e. the number of bedrooms), the number of bedrooms in the unit will be consistent with the number of bedrooms as determined by the local municipal housing department, when applicable (as listed on a certificate of compliance and/or occupancy permit). If the unit is located in an area not covered by a municipal (or county) inspection process, the determination as to the number of bedrooms in the unit will be made by the SCCHA housing inspector. The housing inspector's determination will rely most heavily on the design of the unit and the original intended use of the room/space.

In applying the utility allowance, the utility allowance given shall be the lower of the actual number of bedrooms in the unit (i.e. unit size) or the participant's voucher size (number of bedrooms authorized on the voucher).

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the SCCHA about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

SCCHA Policy

The SCCHA has included an allowance for air-conditioning in its schedule.

Reasonable Accommodation

HCV program regulations require a SCCHA to approve a utility allowance amount higher than shown on the SCCHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the SCCHA will approve an allowance for air-conditioning, even if the SCCHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The SCCHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The SCCHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: PROCEDURES FOR SUPERVISORY REVIEWS, INFORMAL REVIEWS, AND INFORMAL HEARINGS

16.III.A. OVERVIEW

No applicant has a right or entitlement to be listed on the Section 8 rental assistance waiting list, to any particular position on the waiting list, or to admission to the program. However, all applicants have the right to bring a judicial action challenging a SCCHA decision as being a violation of a constitutional or statutory requirement.

16.III.B. SUPERVISORY REVIEWS (FOR APPLICANTS AND PARTICIPANTS)

To maximize administrative efficiencies and to promptly consider applicant and participant claims of improper adverse action, the SCCHA shall, at its discretion employ a supervisory review of adverse staff decisions. The supervisory review shall be conducted by a department director or other supervisor that did not make or approve the alleged adverse decision, or who is not a subordinate of such a person.

A supervisory review meeting is conducted in an informal setting and includes a careful review of the circumstances that resulted in the adverse decision by staff and provides the applicant/participant with the opportunity to respond to any and all issues influencing the adverse decision. The supervisory review is not limited in scope to the adverse decision. Rather, the supervisory review may include a comprehensive review of issues impacting the eligibility of an applicant and/or the right of continued participation of program participants.

Supervisory review decisions are issued in writing within 10 business days of the meeting unless delayed by the receipt of information determined necessary to formulating and issuing a determination. A supervisory review may result in a determination to uphold, rescind, and/or amend the original adverse decision and/or reasons therefore. An applicant or participant may further appeal the supervisory review determination through the informal review or informal hearing process as outlined below. SCCHA may, at its discretion, omit the supervisory review process by moving directly to the informal review (for applicants) or informal hearing (for participants) process.

16.III.C. INFORMAL REVIEWS (APPLICANTS)

An applicant for Section 8 rental assistance has the right to an informal review in the following circumstances:

- The applicant was found ineligible for the program and not placed on the waiting list
- The applicant was removed from the waiting list for failing to follow the requirements
- The applicant was refused a voucher
- The applicant was denied a preference

An applicant for Section 8 rental assistance does not have the right to an informal review in the following circumstances:

- To review discretionary administrative determinations by the SCCHA or to consider general policy issues or class grievances
- To review the SCCHA's determination of the number of bedrooms entered on the voucher
- To review the SCCHA's determination that the unit does not comply with HQS requirements

- To review the SCCHA's determination not to approve a lease for a unit that does not comply with HQS or rent reasonableness requirements
- To review the SCCHA's determination not to approve an extension or suspension of a certificate or voucher term
- To review the SCCHA's determination that the unit is not in accordance with HQS because of family size or composition

The Applicant has the right to examine and to receive copies of (at one's own expense) any information related to the decision to deny assistance.

The informal review must be requested in writing by the applicant within 10 business days of the SCCHA's notification of the action. The written request must contain the following:

The action or actions taken by the SCCHA for which the review is requested

The reason(s) why the applicant feels the action(s) was (were) improper or incorrect

Whether the applicant wishes to have a pre-review meeting with the SCCHA to present oral objections to the decision. If the applicant does not specifically indicate the desire for a personal meeting, the SCCHA shall assume that such a meeting is not being requested.

The informal review shall be conducted as follows:

Except for matters relating to the denial of a preference, the informal review shall be presided over by a person designated by the SCCHA who did not make or approve the decision to deny assistance, or who is not a subordinate of such a person.

The informal review will be scheduled (not necessarily held – see Section 16-III.D) within 10 business days of the receipt of the applicant's request. The applicant shall be notified in writing of the date, time, and place of the review.

The applicant shall have the opportunity to present oral and written evidence at the review. A maximum of three witnesses will be allowed to present evidence on behalf of the applicant.

Following the informal review, the applicant shall be notified in writing of the decision of the SCCHA. The decision will be mailed to the applicant within 10 business days following the date of the review.

Any correspondence by the SCCHA to an applicant that communicates a decision which is subject to an informal review shall contain a statement that such a right for an informal review is available and the procedures for exercising one's right.

16-III.D. INFORMAL HEARINGS (PARTICIPANTS)

A participant, as defined, has the right to request an informal hearing solely for the purpose of determining whether or not a decision to terminate assistance was in compliance with HUD regulations and SCCHA's policies.

Any notification to a participant that terminates assistance will be in writing, and will contain a statement that the participant has the right to request an informal hearing and the deadline for requesting it.

The request for an informal hearing must be in writing and must be received by the SCCHA within 10 business days of the date of the notification of termination.

The participant has the right to examine and to receive copies of (at one's own expense) any information related to the decision to terminate assistance.

The informal hearing will be conducted as follows:

The SCCHA will schedule the informal hearing at a mutually convenient time provided that the informal hearing must occur within 30 days of the SCCHA's receipt of the participant's request.

The informal hearing shall be presided over by a person designated by the SCCHA who did not make or approve the decision to terminate assistance or who is not a subordinate of such a person.

The participant may retain legal counsel or another representative at one's own expense. A maximum of three witnesses may be called by each side.

At the informal hearing, the participant will be given an opportunity to examine evidence and question witnesses, as well as present testimony and evidence in his or her favor. Evidence will be considered without regard to admissibility under rules of evidence applicable to judicial proceedings.

During the informal hearing, the hearing officer may participate in questioning witnesses and may take steps, as necessary, to ensure the hearing is conducted in a civil manner. The hearing officer may also recess or continue the proceedings as necessary to ensure that all pertinent information is presented, while considering the need to reach a decision expeditiously.

Failure of the participant to appear at the hearing, without giving prior notice, shall constitute a waiver of the participant's right to an informal hearing and shall result in a decision to uphold the decision terminating assistance.

The SCCHA will notify the participant, in writing, of its decision within 10 business days of the conclusion of the informal hearing. The notification will state the regulatory and/or other grounds for making the decision.

16-III.E. WHEN A HEARING IS NOT REQUIRED

The SCCHA will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

- Discretionary administrative determinations by the SCCHA
- General policy issues or class grievances
- Establishment of the SCCHA's schedule of utility allowances for families in the program
- A SCCHA's determination not to approve an extension or suspension of a voucher term
- A SCCHA's determination not to approve a unit or lease
- A SCCHA's determination that an assisted unit is not in compliance with HQS (However, SCCHA will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
- A SCCHA's determination that the unit is not in accordance with HQS because of the family size
- A determination by the SCCHA exercise or not exercise any right or remedy against the owner under a HAP contract

16-III.F. DENIALS OR TERMINATIONS RELATED TO DRUG-RELATED CRIMINAL ACTIVITY OR VIOLENT CRIMINAL ACTIVITY

Assistance may be denied or terminated based on drug-related criminal activity if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether or not the family member has been arrested or convicted.

Discretion shall be used in considering all of the circumstances in each case, including the seriousness of the offense, the extent of participation by family members, and the effect that denial or termination of assistance would have on family members not involved in the criminal activity. Remaining members of the family may be permitted, in certain cases, to continue receiving assistance under the condition that family members who it has been determined engaged in the criminal activity will not reside in the unit. Also, a family member who has engaged in the use of drugs may be required to submit evidence of successful completion of a treatment program as a condition of continued assistance.

16-III.G. EFFECT OF THE DECISION

SCCHA is not bound by a hearing decision:

- Concerning a matter for which the Authority is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the SCCHA hearing procedures.
- Contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.
- If the SCCHA determines that it is not bound by a hearing decision, SCCHA will notify the family within 14 calendar days of the determination and of the reasons for the determination.

16-III.H ACCOMMODATION OF PERSON WITH DISABILITIES

Upon request, SCCHA shall provide reasonable accommodation for persons with disabilities to allow participation in the grievance process.

Reasonable accommodation may include, but is not necessary limited to qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident which is required under this policy shall be delivered in accessible format.

16-III.I SECTION 504 DISCRIMINATION COMPLAINTS BY PERSONS WITH DISABILITIES

Any person who feels he/she has been discriminated against on the basis of their handicap or disability in violation of the federal law entitled *Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities*, commonly referred to as Section 504, should file a complaint with the Administrative Director or other member of the Administrative Department.

Complaints should be submitted in written form, unless the person filing the complaint has a handicap that would prohibit him/her from doing so. In such an instance, the complainant should make the cause of the complaint known to the Administrative Director in the most reasonable suitable method available.

The Administrative Director will attempt to informally resolve the complaint to the satisfaction of the complainant within 10 working days. If attempts at informal resolution are unsuccessful, a hearing before the Executive Director will be scheduled.

The complainant will be informed of the Executive Director's decision within 10 business days. The decision will be communicated to the complainant in a manner determined most appropriate, given the nature of the complainant's disability.

If the complainant remains dissatisfied, he/she retains the right to pursue the matter further through whatever judicial or administrative proceedings available under law.

PART IV: OWNER OR FAMILY DEBTS TO THE SCCHA

16-IV.A. OVERVIEW

SCCHA is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the SCCHA [24 CFR 982.54]. This part describes the SCCHA's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

SCCHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the SCCHA holds the owner or participant liable to return any overpayments to the SCCHA.

The SCCHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the SCCHA, the SCCHA will utilize other available collection alternatives.

16-IV.B. REPAYMENT POLICY

Owner Debts to the SCCHA

SCCHA Policy

Any amount due to the SCCHA by an owner must be repaid by the owner within 30 days of the SCCHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the SCCHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the SCCHA may offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the SCCHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the SCCHA

SCCHA Policy

Any amount due to the SCCHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the SCCHA may offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the SCCHA will terminate the assistance upon notification to the family and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to the SCCHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement

SCCHA Policy

Prior to the execution of a repayment agreement, the owner or family must generally pay 25 percent of the balance owed to the SCCHA. The required minimum down payment may vary at SCCHA's discretion based upon the circumstances.

Administrative Fee for Repayment Agreements

SCCHA will charge a \$25 administrative fee for all executed repayment agreements, unless waived by the department director or supervisor.

Payment Thresholds

SCCHA Policy

SCCHA shall generally limit repayment agreement terms to no more than 12 months. Longer periods may be granted at the sole discretion of the SCCHA.

Execution of the Agreement

SCCHA Policy

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

SCCHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Non-Payment

SCCHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the SCCHA, the SCCHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the SCCHA will terminate assistance upon written notification to the family. If a family receives a delinquency notice for an unexcused late payment, the repayment agreement will be considered in default, and the SCCHA may terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

SCCHA Policy

The SCCHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the federal or state threshold for criminal prosecution.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

SCCHA must submit the HUD required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by SCCHA board resolution and signed by the Executive Director.

SCCHA's failure to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

SCCHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the SCCHA's SEMAP certification, HUD will rate the SCCHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The SCCHA or the independent auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the SCCHA's certification on the indicator due to the

SCCHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

SEMAP Indicators
Indicator 1: Selection from the waiting list Maximum Score: 15 <ul style="list-style-type: none">• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.
Indicator 2: Rent reasonableness Maximum Score: 20 <ul style="list-style-type: none">• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.
Indicator 3: Determination of adjusted income Maximum Score: 20 <ul style="list-style-type: none">• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
Indicator 4: Utility allowance schedule Maximum Score: 5 <ul style="list-style-type: none">• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections**Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

Indicator 6: HQS enforcement**Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities**Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards**Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations**Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations**Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections**Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections**Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up**Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders**Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator**Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The SCCHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the SCCHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the SCCHA must keep the following:

- A copy of the executed lease
- The HAP contract
- The application from the family

In addition, the SCCHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants
- An application from each ineligible family and notice that the applicant is not eligible
- HUD-required reports
- Unit inspection reports
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Accounts and other records supporting SCCHA budget and financial statements for the program
- Records to document the basis for SCCHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract)
- Other records specified by HUD

16-VI.C. RECORDS MANAGEMENT

SCCHA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

SCCHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized SCCHA staff.

SCCHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the SCCHA may release the information collected.

Upfront Income Verification (UIV) Records

SCCHA that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

SCCHA Policy

Prior to utilizing HUD's EIV system, the SCCHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The SCCHA may only disclose the criminal conviction records which the SCCHA receives from a law enforcement agency to officers or employees of the SCCHA, or to authorized representatives of the SCCHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The SCCHA must establish and implement a system of records management that ensures that any criminal record received by the SCCHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the SCCHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The SCCHA must establish and implement a system of records management that ensures that any sex offender registration information received by the SCCHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the SCCHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a SCCHA other than under 24 CFR 5.905.

Medical/Disability Records

SCCHA is not permitted to inquire about the nature or extent of a person's disability. The SCCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the SCCHA receives a verification document that provides such information, the SCCHA should not place this information in the tenant file. The SCCHA should destroy the document.

Participant Request for file Documents

Requests by participants for copies of documents from the file maintained related to their participation in the program shall be considered the same as a request submitted under the Freedom of Information Act (FOIA) in that the request must be submitted in writing, SCCHA has up to 5 business days to respond, and there may be a cost to the participant.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The SCCHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, data collection, and record keeping responsibilities that the SCCHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The SCCHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

SCCHA Policy

The SCCHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the SCCHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than six (6) years old with an identified environmental intervention blood lead level.

If the SCCHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the SCCHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the SCCHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the SCCHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

SCCHA Policy

The public health departments have stated they **will not** release the names and addresses of children known to have environmental intervention blood lead levels; therefore, this information is not available for cross-matching purposes.

The public health departments have further stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the SCCHA is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow SCCHA to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the SCCHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the SCCHA will use to determine whether or not the SCCHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

SCCHA Policy

The SCCHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the SCCHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the SCCHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the SCCHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the SCCHA will be considered to have insufficient funding.

Specific actions to be taken include:

1. Suspend "absorbing" new port-in families and bill the initial PHA.
2. Stop issuing vouchers new vouchers to applicants from the waiting list.
3. Withdraw (pull back) any voucher that has been issued to an applicant who is still searching for housing and has not submitted a Request for Tenancy Approval (RFTA).
4. Stop processing any RFTA submitted by an applicant where the unit has not yet passed inspection and a HAP Contract has not been executed.
5. Revise subsidy standards at admission, moves, and recertification that exceed minimum HUD requirements to reduce bedroom size eligibility in accordance with 24 CFR 982.402. A dwelling unit must have at least one bedroom or living sleeping area for each two persons.
6. Lower the payment standards and depending upon the severity of the fiscal shortfall consider asking HUD for a regulatory waiver so that the reduced payment standards may be applied immediately with notice to the family.

7. Implement a “zero tolerance” policy related to material violations of “Family Obligations” which will increase assistance terminations.

8. Reviewing contract rents on assisted units to ensure that all continue to meet the “rent reasonableness” standard. In accordance with the HAP contract, the SCCHA shall provide written notice to owners before reducing what SCCHA determines to be unreasonable rents.

9. SCCHA shall request owners to voluntarily agree to defer rent increases or even temporary rent reductions to help avoid the termination of HAP contracts due to funding shortfalls.

10. As a last resort terminate the assistance of currently assisted families. In making such determinations, SCCHA will exclude senior and disabled households (head or co-head), and will then terminate the assistance of the household who has received assistance the longest. The HUD Field Office and the Financial Management Center will be notified prior to issuing notices of termination actions due to insufficient funding. SCCHA will restrict terminations based on insufficient funds to HCV Contracts (not Project Based Voucher Contracts).

PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-IX.A. NOTIFICATION TO APPLICANTS AND PARTICIPANTS [Pub.L. 109-162]

VAWA requires SCCHA to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

SCCHA Policy

The SCCHA will have available for all applicants and program participants flyers and/or informational brochures containing information regarding their protections and rights under VAWA at the time of admission and at annual reexamination.

The printed information will explain the protections afforded under the law, inform the participant of SCCHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

16-IX.B. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]

VAWA requires SCCHA to notify owners and managers of their rights and responsibilities under this law.

SCCHA Policy

Inform property owners and managers of their screening and termination responsibilities related to VAWA. The SCCHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:

- As appropriate in day to day interactions with owners and managers
- Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters
- Signs in the SCCHA lobby and/or mass mailings which include model VAWA certification forms

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and SCCHA policies related to the project-based voucher (PBV) program in nine 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 Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the SCCHA 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 the SCCHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the SCCHA 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. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

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

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

Note: Significant changes to this chapter were made effective April 10, 2019 to comply with the implementation guidance on the Housing Opportunity Through Modernization Act of 2016 (also known as HOTMA) issued by HUD in Notice PIH 2017-21. Because of its importance and the significant nature of the changes outlined in the notice, Notice PIH 2017-21 is incorporated into

this chapter as Appendix #1 (following the Glossary). In the event of inconsistencies between the language in this chapter and the “Notice” ---the language in the “Notice” supersedes and overrides the language in this chapter.

PART I: GENERAL REQUIREMENTS

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

The project-based voucher (PBV) program allows SCCHA 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 [24 CFR 983.6]. SCCHA may only operate a PBV program if doing so is consistent with the SCCHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

SCCHA Policy

The SCCHA will operate a project-based voucher program using up to 20 percent of its Consolidated Annual Contributions Contract (ACC) authorized units for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the SCCHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the SCCHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

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

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the SCCHA 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.

SCCHA Policy

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

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. SCCHA may not use voucher program funds to cover relocation costs, except that SCCHA may use their administrative fee reserve to pay for

relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the SCCHA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The SCCHA 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 SCCHA must comply with the SCCHA plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

17-I.E. DEFINITION OF PROJECT OR DEVELOPMENT

SCCHA defines a “project” or “development” as including one or more buildings covered by the PBV A-HAPC (Agreement to enter into a Housing Assistance Payments Contract) or HAPC (Housing Assistance Payments Contract). The specific buildings (and the PBV units there within) will be identified in the A-HAPC and HAPC. A project or development may include a single family building (containing one to four units), or multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

The SCCHA must describe the procedures for owner submission of PBV proposals and for SCCHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the SCCHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The SCCHA must select PBV proposals in accordance with the selection procedures in the SCCHA's Administrative Plan. The SCCHA must select PBV proposals by either of the following two methods.

- SCCHA request for PBV Proposals. The SCCHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the SCCHA request. The SCCHA 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 SCCHA 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, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

SCCHA 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 SCCHA. 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 SCCHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

SCCHA Policy

SCCHA Request for Proposals

The SCCHA will advertise its request for proposals (RFP) in the following newspaper.

The Belleville News Democrat

The SCCHA will publish its advertisement in the newspaper mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number

of units the SCCHA estimates that it will be able to assist under the funding the SCCHA is making available. Proposals will be due in the SCCHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the SCCHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The SCCHA will rate and rank proposals using the criteria established in each issued RFP.

SCCHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The SCCHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The SCCHA may periodically advertise that it is accepting proposals, in the *Belleville News Democrat*.

In addition to, or in place of advertising, the SCCHA may also directly contact specific owners that have already been selected for federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The SCCHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the SCCHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD designated Enterprise Zone, Economic Community, or Renewal Community.

SCCHA Notice of Owner Selection [24 CFR 983.51(d)]

The SCCHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

SCCHA Policy

Within 10 business days of the SCCHA making the selection, the SCCHA will notify the selected owner in writing of the owner's selection for the PBV program. The SCCHA 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.

The SCCHA will make available to any interested party its rating and ranking sheets and documents that identify the SCCHA basis for selecting the proposal. These documents

will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The SCCHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The SCCHA will make these documents available for review at the SCCHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

Time Allowed from award to A-HAPC

SCCHA shall provide selected owner proposers one year from date of PBV award to enter into an Agreement to Enter into a Housing Assistance Payments Contract. An extension may be granted if the owner / developer is actively engaged with the Illinois Housing Development Authority (IHDA) and working towards receiving IHDA approval of the proposed development. SCCHA may also grant an extension if the owner / developer has submitted the environmental review and/or subsidy layering review request to the responsible entity(ies) and review and approval is pending. Any and all extensions are at the sole discretion of the SCCHA.

SCCHA owned Units [24 CFR 983.51(e) and 983.59]

SCCHA Policy

The SCCHA anticipates that it will submit one or more proposals for PBV assistance for one or more development / re-development projects where the properties will be considered as SCCHA-owned under HUD's most recent definition (as contained in HOTMA).

Definition of SCCHA-Owned (SCCHA-owned): In accordance with HOTMA, a unit is "owned by the SCCHA" if the unit is in a project that is:

- (a) Owned by the SCCHA (which includes a SCCHA having a "controlling interest" in the entity that owns the unit);
- (b) Owned by an entity wholly controlled by the SCCHA; or
- (c) Owned by a limited liability company (LLC) or limited partnership in which the SCCHA (or an entity wholly controlled by the SCCHA) holds a controlling interest in the managing member or general partner.

"Controlling interest" means:

- (a) Holding more than 50 percent of the stock of any corporation; or
- (b) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation); or

- (c) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the SCCHA; or
- (d) Holding more than 50 percent of all managing member interests in an LLC; or
- (e) Holding more than 50 percent of all general partner interests in a partnership; or
- (f) Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category (f), a SCCHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered SCCHA-owned.

Contract requirements for SCCHA-owned units. Because the HAP contract administrator and the owner cannot be the same legal entity (i.e., the PHA acting as contract administrator cannot execute a contract with itself as the owner of the PBV or HCV units), the SCCHA must establish a separate legal entity to serve as the owner. Such entity may be one of the following:

- (a) A non-profit affiliate or instrumentality of the SCCHA;
- (b) A limited liability corporation;
- (c) A limited partnership;
- (d) A corporation; or
- (e) Any other legally acceptable entity recognized under State law.

Such an entity would serve as the owner only for purposes of execution of the HAP contract. In cases where the independent entity is required to notify the SCCHA, the notification requirement is satisfied by notifying the SCCHA itself. The entity that is serving as the owner for purposes of contract execution does not need to be notified as well.

Rental Assistance Demonstration (RAD). As it pertains to conversions to the PBV program under RAD, the definition of control/ownership provided under the RAD notice (PIH-2012-32 (HA) H-2017-03, REV-3 or successor) is used specifically to determine whether a PHA retains sufficient control over a project for purposes of HUD's requirement for ownership or control of the Covered Project by a public or non-profit entity for RAD conversions.

For purposes of determining whether the SCCHA will be required to use an independent entity to perform certain functions concerning the project, the provisions of PIH Notice 2017-21 (HA) apply to RAD PBV conversions. This means that, under certain circumstances (such as when the SCCHA holds only a fee interest as ground

Lessor in the property in which the unit is situated), a project may meet the RAD definition of ownership or control, but may not be considered to be SCCHA-owned under this notice. In such a circumstance, the SCCHA will not be required to use an independent entity.

SCCHA-owned Units and Independent Entities

For a unit that is SCCHA-owned according to the HOTMA definition, SCCHA must identify and use an independent entity to perform certain functions. For the purposes of this chapter, the term “independent entity” refers to a HUD-approved independent entity, as applicable. These provisions apply to the HCV program (including the Homeownership Option) and the PBV program, except where otherwise noted. SCCHA shall maintain all documentation related to the independent entity functions and approvals in the project file for the duration of the HAP contract.

- (1) Relationship between the SCCHA and the independent entity. As stated in previous HUD guidance, the independent entity and SCCHA must be autonomous. That is, the parties must not be connected legally, financially (except with regard to compensation for services performed for SCCHA-owned units), or in any other manner that could cause either party to be improperly influenced by the other. For example, the independent entity must not include individuals who have a relationship with the SCCHA or the project that would interfere with the entity’s exercise of independent judgment in carrying out responsibilities as they relate to the SCCHA-owned units.

Further, the independent entity must have the ability to perform its responsibilities in an unbiased manner, and the SCCHA must not take any action that could prevent the independent entity from making unbiased determinations related to its responsibilities. Examples of independent entities include, but are not limited to: SCCHA vendors, real estate agencies, non-profit social services agencies with affordable housing experience, and law firms specializing in affordable housing law (for example, to perform the review of the PBV selection process).

- (2) Independent entity functions. The independent entity is responsible for performing certain functions for SCCHA-owned units. The table below provides an overview of each function to be performed by the independent entity, and its regulatory basis, under the PBV program and the HCV program (including the Homeownership Option). Any additional information on a particular function is discussed following the overview table.

Table 1: Overview of Independent Entity Functions

Function	Applicable Program: Regulatory Basis
Review the SCCHA's PBV selection process.	PBV: 24 CFR §983.51(e)
Establish PBV contract rents (initial rent to owner and redetermined rent to owner).	PBV: 24 CFR §983.59(b)(1) PBV: 24 CFR §983.301(g)
Determine rent reasonableness.	PBV: 24 CFR §983.303(f)(1) HCV: 24 CFR §982.352(b)(1)(iv)(A)(1)
Determine reasonableness of the sales price and any SCCHA- provided financing under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(iv)
Provide a copy of the rent reasonableness determination to the SCCHA and the HUD field office where the project is located.	PBV: 24 CFR §983.303(f)(2)
Notify the SCCHA and the family of the rent reasonableness determination.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(1)
Assist the family in negotiating the rent with the owner.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(2)
Establish term of initial and any renewal HAP contract as required in 24 CFR §983.205.	PBV: 24 CFR §983.59(b)(2)
Inspect units.	PBV: 24 CFR §983.59(b)(3) PBV: 24 CFR §983.103(f)(1) HCV: 24 CFR §982.352(b)(1)(iv)(A)(3) Homeownership: 24 CFR §982.628 (d)(3)(i)
Provide a copy of the inspection report to SCCHA and HUD field office where the project is located.	PBV: 24 CFR §983.103(f)(2) and (3)
Communicate the results of the inspection to the family and the SCCHA.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(3)
Review the inspection report prepared by the independent inspector designated by the family under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(ii)
Review the contract of sale under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(iii)

- (a) Review of the SCCHA's PBV selection process. As it relates to the PBV selection process, the SCCHA may either choose to use an independent entity or request the local HUD Office of Public Housing perform the review. Non-competitive selections must also be reviewed to ensure that the selection was done properly. At a minimum, the SCCHA must submit the following to the HUD Field Office or the independent entity, as applicable:
- (i) All proposals submitted for PBV assistance in connection with the particular selection, including proposals submitted for selection in accordance with 24 CFR §983.51(b)(2);
 - (ii) A copy of the relevant section of the SCCHA's Administrative Plan;
 - (iii) A copy of any standard operating procedures, worksheets, checklists, or any other work product used in the selection of PBV proposals; and
 - (iv) If the proposal was selected pursuant to a request for proposals in accordance with 24 CFR §983.51(b)(1), a copy of the solicitation; or
 - (v) If the proposal was selected pursuant to a qualifying previous competition in accordance with 24 CFR §983.51(b)(2), a copy of the proposal for the previous competition, and any award letter provided in connection with the previous competition. If proposals from a previous competition are not retrievable, other documentation that demonstrates that the requirements of 24 CFR §983.51(b)(2) are met (e.g., proposal selected within 3 years of the PBV proposal selection date, proposal selected in accordance with the applicable program's competitive selection requirements, etc.).

The HUD Field Office or HUD-approved independent entity may request from the SCCHA additional documentation necessary to complete the review process. The SCCHA's selection procedures must apply to all PBV proposals and must be designed in a manner that does not effectively eliminate the submission of proposals for non-SCCHA-owned units or give undue preferential treatment (e.g., additional points) to SCCHA-owned units. The HUD Field Office or HUD-approved independent entity must provide a letter stating that the SCCHA-owned units were appropriately selected based on the selection procedures specified in the SCCHA's Administrative Plan before the SCCHA may finalize the selection process.

Under HOTMA, certain PBV units may be attached to a project without a competitive selection process. More information may be found in Attachment L of this notice.

The review of the SCCHA selection process is waived for RAD PBV conversions.

- (b) PBV rent determinations. The independent entity determines rent (initial rent to owner and re-determined rent to owner) for SCCHA-owned units in accordance with the same requirements as for other PBV units. PBV rent determination requirements are found at 24 CFR Part 983, Subpart G.

Rent to owner is re-determined by written notice from the independent entity to the SCCHA specifying the amount of the redetermined rent. The independent entity notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. Such amendments must be documented by a signed exhibit to the HAP contract.

The independent entity re-determines rent for RAD PBV units. That is, the independent entity is responsible for conducting the rent reasonableness determination and for processing Operating Cost Adjustment Factor (OCAF) adjustments for RAD PBV units.

- (c) Term of existing PBV HAP contracts. The term of a HAP contract and any HAP contract extension for SCCHA-owned units must be agreed upon by the SCCHA and the independent entity. HOTMA provides that the initial term of a HAP contract may be up to 20 years (increased from 15 years) and that a HAP contract may be extended for an additional 20 years (again, increased from 15 years). See Attachment G of this notice for more information about this change.

- (d) Inspection requirements. Independent entities are responsible for conducting all required inspections for SCCHA-owned units in accordance with program requirements. The SCCHA must provide families with up-to-date contact information for the independent entity and explain that a family requesting an inspection of the unit makes such a request directly to the independent entity. See Appendix IV of this notice for more information on HCV, Homeownership, and PBV inspection requirements.

- (3) HUD independent entity approval. This section discusses what information must be submitted, when it must be submitted, and other requirements related to the HUD independent entity approval process.

- (a) What information to submit. The SCCHA must include in its submission to the local HUD Office of Public Housing a joint SCCHA and independent entity certification, which certifies that the SCCHA and the proposed entity have no legal, financial, or any other connection that could cause either party to be improperly influenced by the other and that the proposed independent entity will perform its responsibilities as it relates to the SCCHA-owned units in an unbiased manner. The certification must be dated and signed by the executive director, or equivalent position, of the SCCHA and the independent entity. The certification must clearly state the name, address, and point of contact for both the SCCHA and the proposed independent entity.

The HUD Office of Public Housing retains the discretion to accept the certification on its face or to request additional information, or to use information available to the HUD Office, to question the validity of the certification.

- (b) When to submit. The SCCHA must submit the independent entity for approval before the function to be performed by the entity takes place. In determining when to submit the independent entity for approval, a SCCHA must consider the functions that are required to be performed by the independent entity, whether the SCCHA will use more than one independent entity for different functions, the HUD processing time, and how all of these elements interplay with the expected action (HCV HAP contract execution, homeownership closing, PBV proposal selection, etc.).
 - (c) Using different independent entities. If the SCCHA plans to use different independent entities to perform different functions, or different independent entities at different projects, the SCCHA must submit for approval each independent entity it plans to use and identify the function the entity will perform. SCCHAs are not required to submit all independent entities at the same time.
 - (d) Previously approved independent entities. Once an independent entity has been approved by HUD, the SCCHA may use that same independent entity for other SCCHA-owned units or for other functions. If the SCCHA will use an independent entity to perform a function other than the function for which the independent entity was previously approved, then the SCCHA must certify in writing to HUD that it will use a previously HUD-approved independent entity to perform a new function, which must be identified in the certification. The certification must include the name of the independent entity and be dated and signed by the executive director, or equivalent position, of the SCCHA. The certification must clearly state the name, address, and point of contact for both the SCCHA and the independent entity. The entity must be qualified to perform the function or the local HUD Office of Public Housing may deny approval. For example, a law firm that was previously approved to review a PBV selection review process may not be an appropriate independent entity for the purpose of conducting inspections.
- (4) Payment for independent entity services. Payment for services performed by the independent entity is the responsibility of the SCCHA (24 CFR 983.59(d)). The SCCHA may compensate the independent entity from SCCHA ongoing administrative fee income (including amounts credited to the administrative fee reserve (i.e., Unrestricted Net Position)). The SCCHA may not use other HUD program receipts to compensate the independent entity for its services. MTW agencies may use other

sources of funds for these purposes provided that such use is consistent with the MTW agency's HUD- approved MTW plan. Neither the SCCHA nor the independent entity may charge any family that occupies or will occupy a SCCHA-owned unit any fee for the services provided by the independent entity.

Attaching PBVs to Certain PHA-Owned Projects Without Following a Competitive Process

HOTMA adds section 8(o)(13)(N) to the Act, which allows a PHA to attach PBV assistance to units in a project in which the PHA has an ownership interest or over which the PHA has control without following a competitive process. In order to exercise this authority, the PHA must be engaged in an initiative to improve, develop, or replace a public housing property or site.

Content:

- (1)PHA ownership interest. A project does not have to meet the definition of PHA-owned in order for the PHA to have an ownership interest in the project and to be covered by this HOTMA provision. An ownership interest means that the PHA or its officers, employees, or agents are in an entity that holds *any direct or indirect interest* in the project in which the units are located, including, but not limited to, an interest as: titleholder; lessee; stockholder; member, or general or limited partner; or member of a limited liability corporation. For purposes of this authority, a PHA ownership interest also includes a scenario in which the PHA is the lessor of the ground lease for the land upon which the PBV project to improve, develop, or replace the public housing property is located or will be constructed. Units that meet the definition of "PHA-owned" as defined here qualify for this exception. Alternatively, just having an ownership interest for the purpose of this provision does not equate with meeting the definition of PHA-owned as defined in Attachment A.
- (2)Conditions for non-competitive selection. In order to be subject to this non-competitive exception, the following conditions must be met:
 - (a) The PHA must be engaged in an initiative to improve, develop, or replace the public housing properties or sites. The public housing properties or sites may be in the public housing inventory or they may have been removed from the public housing inventory through any available legal removal tool (which may include but is not limited to disposition or demolition under Section 18 of the Act, voluntary conversion under Section 22 of the Act, or required conversion under Section 33 of the Act) within 5 years¹ of the date on which the PHA entered into the AHAP or HAP pursuant to the non-competitive selection.
 - (b) If the PHA plans rehabilitation or new construction, a minimum threshold of

¹ The date on which the unit was removed from IMS/PIC serves as the start date for the 5-year window.

\$25,000 in hard costs per-unit is required.

- (c) If a PHA plans to replace public housing by attaching project-based assistance to existing housing in which the PHA has an ownership interest or over which the PHA has control, then the \$25,000 per-unit minimum threshold does not apply as long as the existing housing substantially complies with HUD's housing quality standards. The PHA's Administrative Plan must describe what it means to "substantially comply with HUD's housing quality standards."
 - (d) The PHA must explain in its Administrative Plan the work it plans to do on the property or site and how many units of PBV it plans to add. See Administrative Plan requirements in the Appendix II to this notice.
- (3) Other PBV requirements. In order to be non-competitively selected under this provision, the units must be eligible for PBV assistance in accordance with 24 CFR §983.53, and the selection of the units must satisfy all other statutory and regulatory requirements of the PBV program. Unless otherwise exempt, units non-competitively selected under this section are subject to the program cap and income-mixing requirements and exceptions discussed in previously in this plan (and detailed in Attachment F of the PIH Notice 2017-21).

17-II.C. HOUSING TYPE [24 CFR 983.52]

The SCCHA 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 SCCHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The SCCHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The SCCHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The SCCHA 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 homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the SCCHA may not attach or pay PBV assistance for a unit occupied by an owner and the SCCHA 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.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

The SCCHA may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the SCCHA determination. The SCCHA may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

SCCHA Policy

The SCCHA will not use high-rise elevator projects for families with children.

Subsidized Housing [24 CFR 983.54]

A SCCHA 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 SCCHA may attach assistance to a unit subsidized with Section 236 interest reduction payments)
- A Section 202 project for nonelderly-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 SCCHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The SCCHA 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 as tax concessions or tax credits.

The SCCHA must submit the necessary documentation to HUD for a subsidy layering review. The SCCHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract 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.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, the SCCHA may not select a proposal to provide PBV assistance for units in a building or enter into an Agreement to Enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP contract is the greater of 25 units or 25 percent (25%) of the of the number of dwelling units (assisted or unassisted) in the building.

Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly.
- The property is located in a census tract with a poverty rate of 20 percent (20%) or less, as determined by the most recent American Community Survey Five Year Estimates. In such case a cap equal to the greater of 25 units or 40% of the dwelling units in the building shall apply.

Promoting Partially Assisted Buildings [24 CFR 983.56(c)]

A SCCHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A SCCHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A SCCHA may also determine not to provide PBV assistance for excepted units, or the SCCHA may establish a per-building cap of less than 25 percent.

SCCHA Policy:

The SCCHA may at its discretion provide PBV assistance for excepted units only for single family buildings and units specifically made available for the elderly or disabled. The SCCHA will not impose any further cap on the number of PBV units assisted per building.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The SCCHA 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 SCCHA 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 SCCHA plan under 24 CFR 903 and the SCCHA's Administrative Plan.

In addition, prior to selecting a proposal, the SCCHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

SCCHA Policy

It is the SCCHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the SCCHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 40 percent or less.

However, the SCCHA will grant exceptions to the 40 percent (%) standard where the SCCHA 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 40 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD designated Enterprise Zone, Economic Community, or Renewal Community;

- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

- A census tract where there has been an overall decline in the poverty rate within the past five years; or

- A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The SCCHA 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
- 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 SCCHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to nonminority-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, health facilities and services, and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The SCCHA 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.). The SCCHA 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 SCCHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the SCCHA, 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 SCCHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The SCCHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

Note: PIH Notice 2011-54 issued, September 20, 2011, includes the following supplementary narrative regarding Environmental Review requirements.

In accordance with 24 CFR 983.58, an environmental review is required for all PBV units including existing units. A PHA, an owner, or 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 until an environmental review is completed. Specifically, no AHAP for rehabilitated or new construction units may be executed until the environmental review is complete and no housing assistance payments (HAP) contract may be executed for existing units until the environmental review is completed. As PHAs are aware, the Housing and Economic Recovery Act (HERA) added a section 8(o)(13)(M) of the U.S. Housing Act of 1937 and paragraph (ii) of that new section relieves a PHA from undertaking an environmental review for an existing structure, except to the extent such a review is otherwise required by law or regulation. This new statutory section was discussed in the Federal Register notice entitled “The Housing and Economic Recovery Act of 2008 Applicability to HUD Public Housing, Section 8 Tenant-Based Voucher and Section 8 Project-Based Voucher Programs,” published on November 24, 2008, at 73 FR 71037. In that notice, HUD advised that under 24 CFR part 58, federal environmental reviews are undertaken by a Responsible Entities (usually units of general local governments), not PHAs. In addition, any federally required

environmental review is “required by law or regulation,” so there do not appear to be any federally required environmental reviews that would be eliminated by this provision.

(Revised 5-01-2012)

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

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.

17-III.C. 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. The SCCHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The SCCHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the SCCHA 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 SCCHA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The SCCHA must inspect each contract unit before execution of the HAP contract. The SCCHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the SCCHA must inspect the unit. The SCCHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the SCCHA 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 annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the SCCHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The SCCHA 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 SCCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The SCCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected a 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 SCCHA supervisory quality control HQS inspections, the SCCHA should include a representative sample of both tenant-based and project-based units.

Inspecting SCCHA owned Units [24 CFR 983.103(f)]

In the case of SCCHA owned units, the inspections must be performed by an independent agency designated by the SCCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the SCCHA and to the HUD field office where the project is located. The SCCHA 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 SCCHA owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. 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.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the SCCHA 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(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the SCCHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the SCCHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

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 SCCHA, specifications and plans. For new construction units, the description must include the working drawings 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 SCCHA's notice of proposal selection to the selected owner. However, the SCCHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the SCCHA may not enter into the Agreement until the environmental review is completed and the SCCHA has received environmental approval.

SCCHA Policy

The SCCHA will enter into the Agreement with the owner promptly upon receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. 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 SCCHA 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 Services Administration list of parties excluded from federal procurement and nonprocurement 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.

17-IV.D. 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 SCCHA in the form and manner required by the SCCHA:

- 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 SCCHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

SCCHA Policy

The SCCHA 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. The SCCHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

SCCHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the SCCHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The SCCHA 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 SCCHA must not enter into the HAP contract.

If the SCCHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the SCCHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The SCCHA 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. The HAP contract must be in the form required by HUD [24 CFR 983.202].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8
- The HAP contract term
- The number of units in any building that will exceed the 25 percent per building cap, which will be set aside for occupancy by qualifying families
- 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 SCCHA may not enter into a HAP contract until each contract unit has been inspected and the SCCHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the SCCHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the SCCHA 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.

SCCHA Policy

For existing housing, the HAP contract will be executed promptly upon the SCCHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed promptly upon the SCCHA 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 SCCHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than twenty years.

SCCHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, the SCCHA may extend the term of the contract for an additional term of up to twenty (20) years if the SCCHA determines an extension is appropriate to continue providing affordable housing for low-income families. 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.

SCCHA Policy

When determining whether or not to extend an expiring PBV contract, the SCCHA 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

- Whether the funding could be used more appropriately for tenant-based assistance

Termination by SCCHA [24 CFR 983.205(c)]

The HAP contract must provide that the term of the SCCHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the SCCHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the SCCHA 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 SCCHA. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

The SCCHA 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 SCCHA determines that a contract does not comply with HQS, the SCCHA 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.

SCCHA Policy

The SCCHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At the SCCHA'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 building for a previously covered contract unit. Before any such substitution can take place, the SCCHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At the SCCHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the SCCHA's PBV program, a HAP contract may be amended at any time during the term of the initial HAP contract or any extension of the HAP Contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal (competitive selection) is not required. However, the anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally in place under the contract. 24 CFR 983.58(c) does not apply when PBV units are added to a current PBV HAP contract. In other words, an environmental review is not required, and there is therefore no need for any sort of determination by a responsible entity.

SCCHA Policy

The SCCHA will consider adding contract units to the HAP contract when the SCCHA 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.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY, AND EXPIRATION DATES [24 CFR 983.206(c) 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.

Contract Termination or Expiration without Extension

With respect to a PBV HAP contract, HOTMA requires the contract to specify that, upon termination or expiration of the contract without extension, an assisted family may elect to remain in its unit and use the assistance previously provided under the contract, as long as the unit meets HUD's housing quality standards and the rent for the unit is reasonable. In such a circumstance, the family may choose to move or to remain in the unit. If the family remains, it will pay its required share of the rent in addition to the amount, if any, by which the gross rent exceeds the applicable payment standard.

Content: This provision applies to all PBV HAP contracts in effect as of April 18, 2017, and all contracts entered into on or after April 18, 2017. HOTMA establishes for PBV-assisted families a right to remain in the project at the end of the PBV HAP contract with tenant-based assistance for as long as the project is used for rental housing and the unit is otherwise eligible for HCV assistance.

- (1) Owner notification. For any contract entered into prior to April 18, 2017, that remains in effect on that date, a PHA must notify the owner in writing that this provision is in effect. The notice must contain the following language:

“Pursuant to Section 106(a)(4) of the Housing Opportunity Through Modernization Act of 2016 and Paragraph 26.b. of Part 2 of the PBV HAP Contract for Existing Housing or Paragraph 27.b. of Part 2 of the PBV HAP Contract for New Construction or Rehabilitation, such contract is amended to provide that, upon termination or expiration of the contract without extension, each family assisted

under the contract may elect to use its assistance to remain in the same project if the family's unit complies with the inspection requirements under section 8(o)(8) (42 U.S.C. 1437f(o)(8)) of the U.S.

Housing Act of 1937 ("the 1937 Act"), the rent for the unit is reasonable as required by section 8(o)(10)(A) of the 1937 Act, and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard."

Any contract entered into on or after April 18, 2017, must include this language.

- (2) Statutory notice. Per the statutory notice requirements at Sec. 8(c)(8) and 24 CFR §983.206, not less than 1 year prior to the termination or expiration without extension of a HAP contract, an owner must provide notice to both the PHA and affected tenants. An owner who fails to provide such notice must permit tenants to remain in their units for the required notice period with no increase in the tenant portion of the rent. During this time period, an owner may not evict a tenant as a result of the owner's inability to collect an increased tenant portion of rent. With PHA agreement, an owner may renew the terminating contract for a period of time sufficient to give tenants 1 year's advance notice. For families who wish to remain at the property, the HCV assistance does not commence until the end of the owner's required notice period.
- (3) Housing quality standards. In order for the family to remain at the project with tenant-based HCV assistance, the unit must meet the HQS requirements of the HCV tenant-based program, including initial inspection requirements. HOTMA made a number of changes related to the initial inspection requirements. (See Notice PIH 2017-20, issued October 27, 2017.)
- (4) Effective date of HCV HAP and family leases. The transition from PBV HAP units to HCV HAP units will require the PHA and owner to plan to assure continued payments for families under lease and continued payments to the owner of units under HAP. The following requirements apply:
 - (a) A PHA may execute an HCV HAP contract before the PBV HAP contract terminates, but the HCV HAP contract may not be effective prior to the PBV contract termination or expiration date.
 - (b) A PHA may not commence the tenant-based HCV housing assistance payment to an owner until the HCV tenant-based HAP contract has been executed.
 - (c) The HCV HAP contract may not be executed before the PHA approves the assisted tenancy in accordance with 982.305. An HCV HAP contract for a family must be executed no later than 60 calendar days from the start of the family's lease. PHAs are encouraged to approve the assisted tenancy and execute the HCV HAP contract without need for the 60-day grace period. If this is not possible, then, as long as the HCV HAP contract is executed during the 60-day grace period, once it has been

executed, the PHA may pay the owner retroactively to the start date of the family's lease term.

- (d) If the HCV HAP contract has a different rent than did the PBV HAP contract, and the new rent is determined by the PHA to be reasonable, then the PHA will use the new gross rent to calculate the family's HCV HAP going forward. The family will be responsible for paying the new family rent to owner starting from the effective date of the HCV HAP contract.
- (5) Inapplicability of HCV eligibility requirements. Per the current definition of "admission" in 24 CFR §983.3, a family that receives a tenant-based HCV pursuant to this newly enacted provision is not a new admission to the HCV program and is not subject to income-eligibility or any other admission requirement. The family does not count toward the PHA's income-targeting requirements at 24 CFR §982.201(b)(2)(i).
- (6) Termination of tenancy by owner. An owner may not terminate the tenancy of a family that exercises its right to remain except for in response to serious or repeated lease violations, or other good cause.
- (7) Family payment toward rent. A family that remains in its unit with continued tenant-based HCV assistance must pay the total tenant payment (determined under 24 CFR part 5 subpart F) and any additional amount by which the unit rent exceeds the applicable payment standard. The family's initial share of the rent may exceed 40 percent of the family's adjusted monthly income, irrespective of the normally applicable restriction on the amount a family may pay when initially assisted in any unit at 24 CFR §982.305(a)(5).
- (8) HCV program rules. All other HCV program rules apply to families who remain in the project.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

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 SCCHA, 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

17-V.F. 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 SCCHA 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 SCCHA 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.

SCCHA Policy

The SCCHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The SCCHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the SCCHA, the HAP contract may provide for vacancy payments to the owner for a SCCHA 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 the SCCHA 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).

SCCHA Policy

The SCCHA will decide on a case-by-case basis if the SCCHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The SCCHA may select families for the PBV program from those who are participants in the SCCHA'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 SCCHA, 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 SCCHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

SCCHA Policy

The SCCHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the SCCHA 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 SCCHA's waiting list. Once the family's continued eligibility is determined (the SCCHA 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 SCCHA 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.

17-VLC. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The SCCHA 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 SCCHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the SCCHA. If the SCCHA chooses to offer a separate waiting list for PBV assistance, the SCCHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a SCCHA decides to establish a separate PBV waiting list, the SCCHA may use a single waiting list for the SCCHA'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.

SCCHA Policy

The SCCHA will establish a separate waiting list for all PBV developments.

17-VLD. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the SCCHA's waiting list. The SCCHA may establish selection criteria or preferences for occupancy of particular PBV units. The SCCHA may place families referred by the PBV owner on its waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the SCCHA's tenant-based and project-based voucher programs during the SCCHA'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.

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 SCCHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The SCCHA 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 SCCHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the SCCHA is prohibited from granting preferences to persons with a specific disability, the SCCHA 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
- For whom such services cannot be provided in a nonsegregated 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 SCCHA has buildings with more than 25 percent of the units receiving project-based assistance because those buildings include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), the SCCHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

SCCHA Policy

The SCCHA 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). The SCCHA will utilize the same preferences for the PBV program it uses for the tenant-based voucher program as specified in Chapter 4, Part III.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The SCCHA 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 SCCHA’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]

When a family accepts a PBV unit they will be removed from the waiting lists for all other PBV developments.

Family Briefing

When a family accepts an offer for PBV assistance, the SCCHA 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 SCCHA must provide a briefing packet that explains how the SCCHA 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 SCCHA 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 SCCHA 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 SCCHA 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).

17-VLF. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

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 SCCHA from the SCCHA'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 SCCHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the SCCHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the SCCHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The SCCHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

SCCHA Policy

The owner must notify the SCCHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The SCCHA will make every reasonable effort to refer families to the owner within 10 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 SCCHA 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.

SCCHA Policy

If any contract units have been vacant for 180 days, the SCCHA 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. The SCCHA will provide the notice to the owner any time after the 180th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the SCCHA's notice. SCCHA has the discretion to not enforce this provision when extenuating circumstances exist (e.g. unit is heavily damaged by natural disaster or casualty loss).

17-VI.G. TENANT SCREENING [24 CFR 983.255]

SCCHA Responsibility

The SCCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the SCCHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

SCCHA Policy

The SCCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy, except for obtaining a criminal record history. The eligibility criteria based upon criminal history shall be made in accordance with the provisions of Chapter 3.

The SCCHA must provide the owner with an applicant family's current and prior address (as shown in SCCHA records) and the name and address (if known by the SCCHA) of the family's current landlord and any prior landlords.

In addition, the SCCHA may offer the owner other information the SCCHA 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 SCCHA must provide applicant families a description of the SCCHA policy on providing information to owners, and the SCCHA must give the same types of information to all owners.

SCCHA Policy

The SCCHA 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. The SCCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc., unless specifically requested by the owner and upon presentation of an authorization to release information from the tenant.

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 VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the SCCHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a SCCHA model lease.

The SCCHA may review the owner's lease form to determine if the lease complies with state and local law. If the SCCHA determines that the lease does not comply with state or local law, the SCCHA may decline to approve the tenancy.

SCCHA Policy

The SCCHA will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit)
- The term of the lease (initial term and any provision for renewal)
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner
- 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 SCCHA (the names of family members and any SCCHA approved live-in aide);
- All provisions in the HUD required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the SCCHA must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

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 SCCHA a copy of all changes.

The owner must notify the SCCHA 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 SCCHA and in accordance with the terms of the lease relating to its amendment. The SCCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other nonresidential purpose.

Noncompliance-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the 25 percent per building 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 owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by SCCHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The SCCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

SCCHA Policy

The SCCHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

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 SCCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If the SCCHA determines that a family is occupying a wrong size unit, based on the SCCHA'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, the SCCHA must promptly notify the family and the owner of this determination, and the SCCHA must offer the family the opportunity to receive continued housing assistance in another unit.

SCCHA Policy

The SCCHA 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 promptly after the SCCHA's determination. The SCCHA 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 SCCHA offers the family a tenant-based voucher, the SCCHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the SCCHA).

If the SCCHA 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 SCCHA, or both, the SCCHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the SCCHA.

SCCHA Policy

When the SCCHA 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. When the SCCHA offers a family a tenant-based voucher, the family will be given the term of the voucher and any extension thereof to lease another unit and vacate the PBV unit. If the family does not move out within the stated time frames, the SCCHA will terminate the housing assistance payments at the expiration of the period.

The SCCHA may make exceptions to this procedure 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 983.260]

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 SCCHA. If the family wishes to move with continued tenant-based assistance, the family must contact the SCCHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the SCCHA 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 SCCHA 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.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

The SCCHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a building. Also, units in projects that are in a census tract with a poverty rate of 20% or less are subject to a higher, 40% cap. Exceptions to the afore stated caps include dwelling units:

1. In a single family residence;
2. Units exclusively serving elderly families;
3. Units housing households eligible for one or more supportive services available to all families receiving PBV assistance in the project.

SCCHA does not anticipate utilizing the allowable “exception provision” based upon providing supportive services to families. Therefore, there is no reference or description herein of the “type of supportive services” offered to families.

SCCHA Policy

The SCCHA will provide PBV assistance for excepted units only for single-family buildings and units designated for the elderly.

17-VILE. UNITS NOT SUBJECT TO PERCENTAGE LIMITATION (PROGRAM CAP) OR INCOME-MIXING REQUIREMENT (PROJECT CAP)

HOTMA provides that certain units do not count toward the PBV percentage limitation and are exempt from the income-mixing requirement when PBV assistance is attached to them.

Content: The following categories of units are excluded from both the percentage limitation and the income-mixing requirement if placed under HAP contract on or after April 18, 2017:

- (1) Excepted units. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the percentage limitation or the income-mixing requirement.

The following categories of units in (a) or (b) are eligible for this exception provided they also meet the conditions described in (c) below:

- (a) The unit received one of the following forms of HUD assistance:
 - (i) Public Housing Capital or Operating Funds (section 9 of the Act);
 - (ii) Project-Based Rental Assistance (section 8 of the Act), including units assisted under the section 8 moderate rehabilitation (Mod. Rehab.) program and Mod. Rehab. single-room occupancy (SRO) program;
 - (iii) Housing for the Elderly (section 202 of the Housing Act of 1959); (iv) Housing for Persons with Disabilities (section 811 of the Cranston-Gonzalez National Affordable Housing Act);
 - (v) The Rent Supplement (Rent Supp) program (section 101 of the Housing and Urban Development Act of 1965);
 - (vi) Rental Assistance Program (RAP) (section 236(f)(2) of the National Housing Act); or

- (vii) Flexible Subsidy Program (section 201 of the Housing and Community Development Amendments of 1978).

or

- (b) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:
 - (i) Section 236;
 - (ii) Section 221(d)(3) or (d)(4) BMIR;
 - (iii) Housing For the Elderly (section 202 of the Housing Act of 1959); (iv) Housing for Persons With Disabilities (section 811 of the Cranston-Gonzalez National Affordable Housing Act); or
 - (v) Flexible Subsidy Program (section 201 of the Housing and Community Development Amendments of 1978).

Units that were previously receiving PBV assistance or HCV tenant-based assistance are not covered by this exception.

- (c) In addition to having received HUD assistance or having been subject to rent restrictions as described in parts (a) and (b) above, the unit must meet the following applicable conditions to qualify for this exception:
 - (i) PBV Existing and Rehabilitated Units.

For units that will be placed under PBV as existing or rehabilitated units:

- (I) The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017; *and*
- (II) In the 5 years prior to the date the PHA either (aa) issued the RFP under which the project was selected, or (bb) selected the project based on a prior competition or without competition, the unit met at least one form of assistance or was subject to a rent restriction as described above. If the existing/rehabilitated project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR §983.51(d).

(ii) PBV New Construction.

A newly constructed unit developed under the PBV program may also be excluded from the limitation, provided the unit qualifies as a replacement unit. The unit must meet *all* of the following requirements to meet this exception to the limitation:

- (I) The unit that the PBV newly constructed unit is replacing (i.e., the original unit) must have received one of the forms of HUD assistance or must have been subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than 5 years from the date the PHA either:
 - (aa) Issued the RFP under which the PBV new construction project was selected; or
 - (bb) Selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR §983.51(d).
- (II) The newly constructed unit is located on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project qualifies as the same site as long as a majority of the replacement units is built back on the site of the original development, and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.
- (III) One of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that previously existed at the site, as evidenced by *at least one* of the following:
 - (aa) Former residents of the original project are provided with a selection preference that provides the residents with the right of first occupancy at the PBV new construction project; or
 - (bb) Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

(IV) The HAP contract first became effective on or after April 18, 2017.

- (2) Unit-size configuration, number of units. The unit-size configuration of a PBV new construction or rehabilitation project may differ from the unit-size configuration of the original project that the PBV units are replacing. In addition, the total number of PBV assisted units may differ from the number of units in the original project. However, under no circumstances may the percentage limitation exception be applied to units that exceed the total number of covered units in the original project. For example, a PBV new construction project will consist of a total of 50 PBV units and is replacing a former section 236 project consisting of 40 units. The maximum number of PBV units that would meet the program and project limitation exception would be 40 units. The remaining 10 PBV units would count against the program and the project limitation.
- (3) Applicability of PBV project-selection requirements. For owner proposals involving excepted units for existing, rehabilitated, and newly constructed properties, the standard requirements for selecting projects and the units for PBV assistance — including consistency with the PHA Plan, the goals of deconcentrating poverty and expanding housing and economic opportunities, site selection, and all civil rights requirements — remain in effect. The only difference is that any PBV assistance provided to these properties does not count against the 20 percent program cap and may be used to project-base up to 100 percent of the units in the project. The provisions of Notice PIH 2013–27 that concern the voluntary relinquishment by families of enhanced voucher assistance for PBV assistance remain in effect. This means that, in the event of a Housing Conversion Action at a project, HCV assistance may be project-based at the project, but only if the requirements of Notice PIH 2013–27 are met. Units at the project for which a family has voluntarily relinquished enhanced voucher assistance for PBV assistance do not count against a PHA’s program cap, nor the income-mixing requirement.

These exceptions may be applied only to projects that were not already under HAP contract as of April 18, 2017 (the effective date of the January 18, 2017, implementation notice). The exception may not be applied retroactively to projects under HAP contracts that commenced before April 18, 2017, or subsequently applied at the extension of those HAP contracts.

- (4) Other units not subject to the percentage limitation or income-mixing requirement.
- (a) RAD. HUD has waived the statutory and regulatory provisions regarding the 20 percent percentage limitation for RAD PBV units. Under HOTMA, neither are such units subject to the income-mixing requirement, as long as they meet the conditions in section (1) of this attachment. This means that a PHA that is administering RAD PBV assistance does not take the voucher units attributable to the RAD PBV contracts into consideration when calculating the 20 percent limitation. In other words, the units committed to RAD PBV are excluded from both the numerator and the denominator when calculating the number of voucher units that may be project-based. This exception applies regardless of the effective date of the HAP contract.

- (b) HUD-VASH. HUD has awarded vouchers specifically designated for project- based assistance out of the HUD-VASH appropriated funding made available from the FY 2016, FY 2015, FY 2014, FY 2013, FY 2011, and FY 2010 Appropriations Acts. Since these PBV HUD-VASH set-aside voucher allocations were made specifically for PBV assistance, HUD has determined that the PBV units supported by those vouchers will not count against the PHA's PBV program cap, for as long as the vouchers remain under PBV HAP contract at the designated project.. This means that a PHA will exclude these PBV HUD-VASH units from both the numerator and the denominator when calculating the number of authorized ACC units that are available for project- basing.

All other HUD-VASH vouchers, including non-set aside HUD-VASH vouchers that a PHA chooses to project-base, are subject to the percentage limitation.

Calculations. See Appendix I for instructions on how to calculate the number of voucher units that may be project-based when certain units no longer count toward the percentage limitation.

- (5) Reporting requirement. If a PHA wishes to add PBV units under the program cap exceptions described above, then the PHA must provide the number of PBV units to which it will be attaching PBV assistance under this exception authority to HUD no later than 14 calendar days prior to the date that the PHA intends to issue the RFP or make the selection. The PHA must indicate the specific exception that covers the units. This information must be submitted by email to pbvsubmission@hud.gov.

A PHA is not required to report future RAD projects for which it will be attaching PBV assistance, or future HUD-VASH awarded vouchers specifically designated by HUD for project-based assistance. Unlike the program cap, there is no requirement to submit PBV project cap information to HUD.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the SCCHA, not to exceed 110 percent of the applicable fair market rent (or any HUD approved exception payment standard) for the unit bedroom size minus any utility allowance
- The reasonable rent
- 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. These 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 building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit
- The tax credit rent exceeds a SCCHA determined amount (not to exceed 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 the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the SCCHA 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 SCCHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the SCCHA 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 stand amount for use in the PBV program.

Likewise, the SCCHA 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.

SCCHA Policy

Upon written request by the owner, the SCCHA 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. The SCCHA 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, the SCCHA 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 the SCCHA determines it is necessary due to SCCHA's budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The SCCHA 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 SCCHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the SCCHA. The SCCHA 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).

SCCHA Policy

An owner's request for a rent increase must be submitted to the SCCHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The SCCHA 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.

Notice of Rent Change

The rent to owner is redetermined by written notice by the SCCHA to the owner specifying the amount of the redetermined rent. The SCCHA 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.

SCCHA Policy

The SCCHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

SCCHA owned Units [24 CFR 983.301(g)]

For SCCHA 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 SCCHA must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the SCCHA.

When Rent Reasonable Determinations are Required

The SCCHA 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 SCCHA 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
- 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 SCCHA 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 SCCHA. The comparability analysis may be performed by SCCHA 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.

SCCHA owned Units

For SCCHA 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 SCCHA owned units to the SCCHA 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 SCCHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, a SCCHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or noninsured-insured Section 236 project
- A formerly insured or noninsured-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action
- A Section 221(d)(3) below market interest rate (BMIR) project
- A Section 515 project of the Rural Housing Service
- A project receiving low-income housing tax credits
- Any other type of federally subsidized project specified by HUD

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the SCCCHA 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 SCCCHA agree on a later date.

Except for discretionary vacancy payments, the SCCCHA 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 SCCCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

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 SCCCHA determines that the vacancy is the owner's fault.

SCCCHA Policy

If the SCCCHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the SCCCHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The SCCCHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the SCCCHA, the HAP contract may provide for vacancy payments to the owner. The SCCCHA may only make vacancy payments if:

- The owner gives the SCCCHA 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 SCCCHA 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 SCCHA and must provide any information or substantiation required by the SCCHA to determine the amount of any vacancy payment.

SCCHA 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 the SCCHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made promptly upon the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the SCCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the SCCHA within 10 business days of the SCCHA's request, vacancy payments will generally not be made, extenuating circumstances excepted.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the SCCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the SCCHA'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 the SCCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the SCCHA. The owner must immediately return any excess payment to the tenant.

Tenant and SCCHA 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 SCCHA.

Likewise, the SCCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The SCCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The SCCHA 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 SCCHA 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 SCCHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the SCCHA chooses to pay the utility supplier directly, the SCCHA must notify the family of the amount paid to the utility supplier.

SCCHA Policy

The SCCHA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Nonpayment 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, nonpayment 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.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint

MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative fee reserve (formerly “operating reserve”). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual Income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

“As-paid” States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAS under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See Person with Disabilities.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Elderly family. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

Family. Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See “Disability Assistance Expense.”

HAP contract. Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction. The area in which the PHA has authority under State and local law to administer the program.

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the PHA to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of “cooperative.”

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and “individual with handicaps” as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See “Individual with handicaps”

Portability. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called "tolling".

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See "Family rent to owner".

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (Housing Choice Voucher). A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

APPENDIX I

PIH 2017-21



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Public Housing Agencies
Public Housing Agencies that
Administer the Housing Choice
Voucher Program; Owners;
Other Grantees

NOTICE PIH 2017–21 (HA)

Issued: October 30, 2017

This notice remains in effect until amended,
superseded, or rescinded

CROSS REFERENCES

Notice PIH 2009–51

Notice PIH 2011–28

Notice PIH 2011–65 (HA)

Notice PIH 2012–21 (HA)

Notice PIH 2012–32 (HA) H 2017–03, REV-3

Notice PIH 2013–27

Notice PIH 2015–18

Notice PIH 2016–05

SUPERSEDES

Notice PIH 2002–22

Notice PIH 2006–16

Notice PIH 2011–54

Notice PIH 2015–05

Notice PIH 2015–10

Subject: Implementation Guidance: Housing Opportunity Through Modernization Act of 2016 (HOTMA) — Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) Provisions

I. Purpose

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) made changes to both the definition of PHA-owned housing (for project-based and tenant-based vouchers) and the project-based voucher (PBV) program. This notice provides guidance on those changes. The provisions covered by this notice were implemented through a *Federal Register* (FR) notice (82 FR 5458) published on January 18, 2017. HUD then published a follow-up notice at 82 FR 32461 on July, 14, 2017, with technical corrections and clarifications to the January 18, 2017, notice (see Part IV below). The January 18, 2017, notice, as revised by the technical correction notice, is referred to as the “January 18, 2017, implementation notice” throughout this notice.

To consolidate PBV guidance, HUD has incorporated content from previous PBV notices into this notice. See Section V, below, for a list of such notices.

II. Background

On July 29, 2016, HOTMA was signed into law (Public Law 114–201, 130 Stat. 782). HOTMA made numerous changes to statutes that govern HUD programs, including section 8 of the United States Housing Act of 1937 (“the Act”) (42 U.S.C. 1437f). On January 18, 2017, HUD published a notice (82 FR 5458) to implement various HCV provisions, including a new statutory definition of PHA-owned housing (§105 of HOTMA) and changes to the PBV program (§106 of HOTMA). The provisions went into effect on April 18, 2017. This PIH notice provides further guidance on the implementation of these provisions.

The January 18, 2017, implementation notice also implemented two provisions related to inspections for HCV tenant-based and PBV assistance (§101(a)(1) of HOTMA) (see Notice PIH 2017–20, issued October 27, 2017) and a change to the HCV housing assistance payment (HAP) calculation for families who own manufactured housing and are renting the manufactured home space (§112 of HOTMA) (guidance will be published separately).

The following HOTMA provisions relating to the PBV program were not implemented by the January 18, 2017, implementation notice and consequently are not covered in this notice:

1. Section 106(a)(4)(iii), authorizing a PHA to enter into a PBV HAP Contract for any unit that does not qualify as existing housing and is under construction or recently has been constructed regardless of whether the PHA and owner executed an Agreement to Enter a Housing Assistance Payments Contract (AHAP);
2. Section 106(a)(6), authorizing for the use of an operating cost adjustment factor to adjust PBV contract rents;
3. Section 106(a)(7), authorizing the use of owner-maintained, site-based waiting lists for PBV units; and
4. Section 106(a)(8), concerning the environmental review requirements for existing housing.

III. Structure

This notice is comprised of attachments and appendices. Each attachment follows a uniform structure:

1. Title
2. Regulation
3. HOTMA Reference
4. Applicable Program(s)
5. Summary of Change
6. Content

IV. Summary of Technical Corrections

The July, 14, 2017, notice published at 82 FR 32461 (“technical correction notice”) corrected several typographic errors and made the following technical corrections and clarifications to the January 18, 2017, implementation notice. All of the corrections and clarifications are reflected in the respective attachments to this PIH notice and are summarized here in the order in which they appear in this notice solely for the sake of convenience:

1. PHA-Owned Units (Attachment A). The original notice used the phrase “50 percent or more” to define a level of control that constitutes a controlling interest and would thus indicate PHA ownership. The technical correction notice replaces that phrase with “more than 50 percent.”
2. Percentage Limitation (Program Cap) (Attachment C). The original notice stated that new construction units will qualify for replacement housing if they are located on the “site of the original public housing development.” The technical correction notice strikes the phrase “public housing,” making clear that the requirement applies broadly to all covered forms of housing assistance that are excluded from the percentage limitation.
3. Income-Mixing Requirement (Project Cap) (Attachment E).
 - a. *Supportive services.* HOTMA provides that a family can no longer be required to participate in supportive services as a condition of living in a unit in order for that unit to meet the supportive services exception. The technical correction clarifies therefore that a PHA may not rely solely on a supportive services program that requires a family to engage in supportive services, such as the Family Self-Sufficiency (FSS) program, in order for the unit to meet the supportive services exception. Also, the original notice stated that if a family “fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit...and the PHA shall cease paying housing assistance payments.” HUD determined that this provision could be wrongly construed in a way that conflicts with current FSS requirements, which do not allow termination from the housing assistance program for failure to complete the FSS contract.
 - b. *25 percent cap.* The technical correction notice clarifies that the income-mixing cap for projects that are in a census tract with a poverty rate of 20 percent or less is increased from 25 to 40 percent.
 - c. *Definition of new construction.* The technical correction notice makes the definition of new construction units that qualify for an exception to the project cap the same as the definition for new construction that applies to the exception for the PBV percentage limitation.
4. Units Not Subject to Percentage Limitation or Income-Mixing Requirement (Attachment F). The original notice excluded from the list of excepted units those units that received assistance under section 201 of the Housing and

Community Development Amendments of 1978 (Flexible Subsidy program). The technical correction notice clarifies that such units are excepted from both the percentage limitation and the income-mixing requirement.

5. Attaching PBV to Certain PHA-Owned Projects Without Following a Competitive Process (Attachment L). The original notice applied a per-unit cost rehabilitation threshold to all replacement housing, including existing housing. The technical correction notice makes clear that there is no per-unit cost requirement for existing housing owned or controlled by a PHA.

V. Notices Superseded by this Notice

To consolidate PBV guidance, the Department has incorporated content from previous PBV notices into this notice. Specifically, this notice supersedes PIH Notices 2002–22, 2006–16, 2011–54, 2015–05, and 2015–10 in their entirety, as described below:

1. Notice PIH 2002–22 (Units with Low-Income Housing Tax Credit Allocations Combined with Housing Choice Voucher Assistance under the Tenant-Based and Project-Based Programs). This notice is rescinded. The provisions of PIH 2002–22 (which were promulgated before HUD had implemented a PBV regulation) align with current PBV regulations, and are thus no longer necessary in a notice. PBV rents for Low Income Housing Tax Credit (LIHTC) units under existing and prospective PBV HAP contracts are determined in accordance with PBV regulations at 24 CFR §983.301.
2. Notice PIH 2006–16 (Project-Based Voucher Units with Low-Income Housing Tax Credit Allocations). This notice is rescinded. The “grandfathering” of PBV projects under PIH 2006–16 is no longer necessary, because PBV rents are no longer capped at the LIHTC rent as they once were. PBV rents for LIHTC units under existing and prospective PBV HAP contracts are determined in accordance with PBV regulations at 24 CFR §983.301.
3. Notice PIH 2011–54 (Guidance on the Project-Based Voucher Program):
 - a. “PHA-owned units” is revised by HOTMA, in which a statutory definition of such units was enacted. (Attachment A)
 - b. “Proposal Selection Process” is revised by HOTMA to authorize a PHA to attach PBV assistance to certain PHA-owned projects without following a competitive process. (Attachment L)
 - c. Most remaining portions of Notice PIH 2011–54 are unchanged by HOTMA and are included as an appendix to this notice. Note that additional PBV provisions not covered in PIH 2011–54 are also included as part of Appendix II. (Appendix II)
4. Notice PIH 2015–05 (Project-Based Voucher (PBV) Guidance):
 - a. “Section I – Timely Reporting of the Family Report (form HUD-50058 and form HUD 50058 MTW) into the Inventory Management System/Public Indian Housing Information Center (IMS/PIC) and Timely Submission Into the Voucher Management System (VMS) for

Project Based Vouchers” is adopted with updates to VMS reporting per VMS *User’s Manual* release 8.9.0.0 (April 2016). (Appendix III)

- b. “Section II – Maximum Amount of PBV Assistance (20 Percent Limit) in the PBV Program and PHA Submission requirements under 24 CFR 983.6(d)” is superseded by HOTMA, under which a PHA may project-base up to 20 percent of its Consolidated Annual Contributions Contract authorized units, instead of 20 percent of its voucher budget authority. This notice revises the requirements for PHA notification to HUD of the intent to project-base. (Attachments C and D)
 - c. “Section III – PHA-Owned Units under the PBV Program” is superseded by HOTMA, which revises the definition of PHA-owned units. This notice also covers the role of the independent entity with respect to PHA-owned units. (Attachments A and B)
5. Notice PIH 2015–10 (Project-Basing HUD-Veterans Affairs Supportive Housing (VASH) Vouchers. HOTMA authorizes PHAs to project-base Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) vouchers without requiring additional HUD approval. Prior to HOTMA, PHAs were prohibited from project-basing vouchers awarded for FUP. HUD-VASH vouchers could be project-based, but required HUD review and approval in accordance with Notice PIH 2015–10 (this applied to HUD-VASH vouchers the PHA chose to project-base and not to HUD-VASH units awarded under a HUD-VASH PBV allocation as described in Attachment F of this notice). This notice supersedes PIH 2015–10 in its entirety.

VI. Applicability to Moving to Work (MTW) Agencies

This notice applies generally to MTW agencies. With respect to any individual MTW agency that is required to submit an Annual MTW Plan to HUD for approval, any specific regulatory provisions addressed in this notice that have been waived as part of the agency’s approved Annual MTW Plan do not apply to that agency.

VII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The information collection requirements of this notice were assigned OMB Control Number 2577–0169.

Dominique Blom
General Deputy Assistant Secretary
for Public and Indian Housing

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Attachments

Attachment A: PHA-Owned Units

Regulation: 24 CFR §983.3, 24 CFR §982.352, and 24 CFR §982.628(d)

HOTMA Reference: Sec. 105, which amends Sec. 8(o)(11) of the Act

Applicable Programs: HCV (including the Homeownership Option) and PBV

Summary of Change: HOTMA defines the term “owned by a PHA,” overriding the definition of PHA-owned units previously established in regulation under 24 CFR §983.3, 24 CFR §982.352, and 24 CFR §982.628(d). This Attachment A and Attachment B supersede Notice PIH 2015–05, Section III, in its entirety.

Content: For a unit that is PHA-owned according to the HOTMA definition, a PHA must identify and use an independent entity to perform certain functions. Attachment B of this notice discusses the responsibilities of independent entities for PHA-owned units.

The provisions of this Attachment A apply to the PBV program and to the HCV program (including the Homeownership Option), except where otherwise noted.

(1) Definition of PHA-owned units. In accordance with HOTMA, a unit is “owned by a PHA” if the unit is in a project that is:

- (a) Owned by the PHA (which includes a PHA having a “controlling interest” in the entity that owns the unit);
- (b) Owned by an entity wholly controlled by the PHA; or
- (c) Owned by a limited liability company (LLC) or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

“Controlling interest” means:

- (a) Holding more than 50 percent of the stock of any corporation; or
- (b) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation); or
- (c) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA; or
- (d) Holding more than 50 percent of all managing member interests in an LLC; or
- (e) Holding more than 50 percent of all general partner interests in a partnership; or
- (f) Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category (f), a PHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered PHA-owned.

PHA-Owned Project: Example

PHA A holds more than 50 percent of the stock in ABC Projects, and ABC Projects is a corporation that owns the project to which PBV assistance will be attached. In this case, the project is considered PHA-owned.

- (2) Units not PHA-owned. The previous definition of PHA-owned (as established in regulation) was more expansive than the HOTMA definition. Under the previous definition, if a PHA held any interest (direct or indirect) in a project, then the project was considered to be PHA-owned. The following list offers examples of scenarios under which a unit is not considered to be PHA-owned under the HOTMA definition:
- (a) The PHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself.
 - (b) The PHA holds only a security interest under a mortgage or deed of trust on the unit; or
 - (c) The PHA has only a non-controlling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit. Following the example above, assume PHA A holds only 45 percent of ABC Project's stocks, which is below the threshold that constitutes a controlling interest in the corporation that owns the project. In this case, the project is not considered to be PHA-owned.

As it relates to the PBV program, the new section 8(o)(13)(N) of the Act allows a PHA to attach PBVs to a project in which the PHA has an ownership interest or over which the PHA has control, without following a competitive process, but only in cases in which the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. In this context, the PHA's ownership interest does not have to meet the definition of the term "owned by a PHA" established by section 105 of HOTMA. Information on what constitutes an ownership interest or control for purposes of section 8(o)(13)(N) is found in Attachment L of this notice.

- (3) Classifying a unit as not PHA-owned. The new definition of PHA-owned is in effect as of April 18, 2017, and applies to all PBV projects. An opinion from the PHA's legal counsel that a unit is not PHA-owned is required under the following two scenarios:
- (a) The change in definition results in a project that was PHA-owned under the previous definition and was under HAP or AHAP before April 18, 2017, to no longer be PHA-owned.
 - (b) A change in ownership structure results in a project no longer meeting the definition of PHA-owned in effect as of April 18, 2017.

The project remains classified as PHA-owned for purposes of program requirements and monitoring until the PHA obtains an opinion from its legal counsel that the project is no longer PHA-owned for a project that fits into one of the above two categories. Except for the two instances described above, a PHA is not required to obtain a legal opinion when determining if a unit is PHA-owned. Once the legal opinion has been

obtained, the PHA is no longer required to use an independent entity to perform the applicable responsibilities (as described in Attachment B) concerning the project. The PHA must keep the legal opinion in its files for the length of the PBV HAP contract, the HCV HAP contract, or Homeownership assistance, as applicable.

- (4) Classifying a PBV project as PHA-owned due to a change in ownership. If an ownership structure changes in a manner that would cause a project to become classified as PHA-owned (e.g., the PHA ownership interest is increased to an amount greater than 50 percent), then the PHA must identify to the local HUD Field Office of Public Housing, in writing, within 30 days of the change in ownership, the proposed independent entity that will perform the applicable independent entity responsibilities. See Attachment B of this notice for more information on independent entities.
- (5) Contract requirements for PHA-owned units. Because the HAP contract administrator and the owner cannot be the same legal entity (i.e., the PHA acting as contract administrator cannot execute a contract with itself as the owner of the PBV or HCV units), the PHA must establish a separate legal entity to serve as the owner. Such entity may be one of the following:
 - (a) A non-profit affiliate or instrumentality of the PHA;
 - (b) A limited liability corporation;
 - (c) A limited partnership;
 - (d) A corporation; or
 - (e) Any other legally acceptable entity recognized under State law.

Such an entity would serve as the owner only for purposes of execution of the HAP contract. In cases where the independent entity is required to notify the PHA, the notification requirement is satisfied by notifying the PHA itself. The entity that is serving as the owner for purposes of contract execution does not need to be notified as well.

- (6) Rental Assistance Demonstration (RAD). As it pertains to conversions to the PBV program under RAD, the definition of control/ownership provided under the RAD notice (PIH-2012-32 (HA) H-2017-03, REV-3 or successor) is used specifically to determine whether a PHA retains sufficient control over a project for purposes of HUD's requirement for ownership or control of the Covered Project by a public or non-profit entity for RAD conversions.

For purposes of determining whether the PHA will be required to use an independent entity to perform certain functions concerning the project, the provisions of this notice apply to RAD PBV conversions. This means that, under certain circumstances (such as when the PHA holds only a fee interest as ground lessor in the property in which the unit is situated), a project may meet the RAD definition of ownership or control, but may not be considered to be PHA-owned under this notice. In such a circumstance, the PHA would not be required to use an independent entity.

Attachment B: PHA-Owned Units and Independent Entities

Regulation: 24 CFR §983.59, 24 CFR §982.352, and 24 CFR §982.628(d)

HOTMA Reference: Not applicable

Applicable Programs: HCV (including the Homeownership Option) and PBV

Summary of Change: HUD is changing the existing policy for independent entity review and approval by superseding the requirements established under Section III of Notice PIH 2015–05. Notice PIH 2015–05 required a PHA to submit documentation that demonstrated or supported the independent nature of the parties’ relationship. With the publication of this notice, PHAs must, instead, submit a joint certification as explained in paragraph 3, HUD independent entity approval, below.

The requirement to submit a joint certification is a change to HUD policy as laid out in the aforementioned PIH notice; it is not a change resulting from the enactment of HOTMA. HUD expects that this change will ease PHA administrative burden because PHAs will no longer need to produce documentation (such as financial statements, legal documents showing the structure of each organization, etc.) showing the independent nature of the parties. While HUD retains the right to request more information, HUD expects that this will be unnecessary in the majority of cases. This attachment also provides some examples of independent entities and includes tables that provide a visual representation of independent entity functions.

Content: If a unit is considered PHA owned (based on the definition of PHA-owned unit, as explained in Attachment A of this notice), then Section 8(o)(11) of the Act requires that the unit of general local government or a HUD-approved independent entity perform certain functions for such units. If the PHA itself is the unit of general local government or an agency of such government, then the next level of general local government may perform such functions without HUD approval. For example, if the PHA itself is the city or an agency of the city, then the county or state government may perform the functions without HUD approval.

In cases where there is no next level of general local government (e.g., the PHA is an agency of the state) or the PHA opts not to have independent-entity functions performed by the next level of general local government, then the PHA must retain the services of an independent, HUD-approved public or private entity.

For purposes of this attachment, the term “independent entity” refers to either the unit of general local government or the HUD-approved independent entity, as applicable. The provisions of this attachment apply to the HCV program (including the Homeownership Option) and the PBV program, except where otherwise noted.

PHAs are encouraged to maintain all documentation related to independent entity functions and approvals in the project file for the duration of the HAP contract.

- (1) Relationship between the PHA and the independent entity. As stated in previous HUD guidance, the independent entity and PHA must be autonomous. That is, the parties must not be connected legally, financially (except with regard to compensation for services performed for PHA-owned units), or in any other manner that could cause either party to be improperly influenced by the other. For example, the independent entity must not include individuals who have a relationship with the PHA or the project that would interfere with the entity’s exercise of independent judgment in

carrying out responsibilities as they relate to the PHA-owned units.

Further, the independent entity must have the ability to perform its responsibilities in an unbiased manner, and the PHA must not take any action that could prevent the independent entity from making unbiased determinations related to its responsibilities. Examples of independent entities include, but are not limited to: PHA vendors, real estate agencies, non-profit social services agencies with affordable housing experience, and law firms specializing in affordable housing law (for example, to perform the review of the PBV selection process).

- (2) Independent entity functions. The independent entity is responsible for performing certain functions for PHA-owned units. The table below provides an overview of each function to be performed by the independent entity, and its regulatory basis, under the PBV program and the HCV program (including the Homeownership Option). Any additional information on a particular function is discussed following the overview table.

Table 1: Overview of Independent Entity Functions

Function	Applicable Program: Regulatory Basis
Review the PHA's PBV selection process.	PBV: 24 CFR §983.51(e)
Establish PBV contract rents (initial rent to owner and redetermined rent to owner).	PBV: 24 CFR §983.59(b)(1) PBV: 24 CFR §983.301(g)
Determine rent reasonableness.	PBV: 24 CFR §983.303(f)(1) HCV: 24 CFR §982.352(b)(1)(iv)(A)(1)
Determine reasonableness of the sales price and any PHA-provided financing under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(iv)
Provide a copy of the rent reasonableness determination to the PHA and the HUD field office where the project is located.	PBV: 24 CFR §983.303(f)(2)
Notify the PHA and the family of the rent reasonableness determination.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(1)
Assist the family in negotiating the rent with the owner.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(2)
Establish term of initial and any renewal HAP contract as required in 24 CFR §983.205.	PBV: 24 CFR §983.59(b)(2)
Inspect units.	PBV: 24 CFR §983.59(b)(3)

Function	Applicable Program: Regulatory Basis
	PBV: 24 CFR §983.103(f)(1) HCV: 24 CFR §982.352(b)(1)(iv)(A)(3) Homeownership: 24 CFR §982.628 (d)(3)(i)
Provide a copy of the inspection report to PHA and HUD field office where the project is located.	PBV: 24 CFR §983.103(f)(2) and (3)
Communicate the results of the inspection to the family and the PHA.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(3)
Review the inspection report prepared by the independent inspector designated by the family under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(ii)
Review the contract of sale under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(iii)

- (a) Review of the PHA's PBV selection process. As it relates to the PBV selection process, the PHA may either choose to use an independent entity or request that the local HUD Office of Public Housing perform the review. Non-competitive selections must also be reviewed to ensure that the selection was done properly. At a minimum, the PHA must submit the following to the HUD Field Office or the independent entity, as applicable:
- (i) All proposals submitted for PBV assistance in connection with the particular selection, including proposals submitted for selection in accordance with 24 CFR §983.51(b)(2);
 - (ii) A copy of the relevant section of the PHA's Administrative Plan;
 - (iii) A copy of any standard operating procedures, worksheets, checklists, or any other work product used in the selection of PBV proposals; and
 - (iv) If the proposal was selected pursuant to a request for proposals in accordance with 24 CFR §983.51(b)(1), a copy of the solicitation; or
 - (v) If the proposal was selected pursuant to a qualifying previous competition in accordance with 24 CFR §983.51(b)(2), a copy of the proposal for the previous competition, and any award letter provided in connection with the previous competition. If proposals from a previous competition are not retrievable, other documentation that demonstrates that the requirements of 24 CFR §983.51(b)(2) are met (e.g., proposal selected within 3 years of the PBV proposal selection date, proposal

selected in accordance with the applicable program's competitive selection requirements, etc.).

The HUD Field Office or HUD-approved independent entity may request from the PHA additional documentation necessary to complete the review process. The PHA's selection procedures must apply to all PBV proposals and must be designed in a manner that does not effectively eliminate the submission of proposals for non-PHA-owned units or give undue preferential treatment (e.g., additional points) to PHA-owned units. The HUD Field Office or HUD-approved independent entity must provide a letter stating that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA's Administrative Plan before the PHA may finalize the selection process.

Under HOTMA, certain PBV units may be attached to a project without a competitive selection process. More information may be found in Attachment L of this notice.

The review of the PHA selection process is waived for RAD PBV conversions.

- (b) PBV rent determinations. The independent entity determines rent (initial rent to owner and redetermined rent to owner) for PHA-owned units in accordance with the same requirements as for other PBV units. PBV rent determination requirements are found at 24 CFR Part 983, Subpart G.

Rent to owner is redetermined by written notice from the independent entity to the PHA specifying the amount of the redetermined rent. The independent entity notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. Such amendments must be documented by a signed exhibit to the HAP contract.

The independent entity redetermines rent for RAD PBV units. That is, the independent entity is responsible for conducting the rent reasonableness determination and for processing Operating Cost Adjustment Factor (OCAF) adjustments for RAD PBV units.

- (c) Term of existing PBV HAP contracts. The term of a HAP contract and any HAP contract extension for PHA-owned units must be agreed upon by the PHA and the independent entity. HOTMA provides that the initial term of a HAP contract may be up to 20 years (increased from 15 years) and that a HAP contract may be extended for an additional 20 years (again, increased from 15 years). See Attachment G of this notice for more information about this change.
- (d) Inspection requirements. Independent entities are responsible for conducting all required inspections for PHA-owned units in accordance with program requirements. The PHA must provide families with up-to-date contact information for the independent entity and explain that a family requesting an inspection of the unit makes such a request directly to the independent entity. See Appendix IV of this notice for more information on HCV, Homeownership, and PBV inspection requirements.

- (3) HUD independent entity approval. This section discusses what information must be submitted, when it must be submitted, and other requirements related to the HUD independent entity approval process.

- (a) What information to submit. The PHA must include in its submission to the local HUD Office of Public Housing a joint PHA and independent entity certification, which certifies that the PHA and the proposed entity have no legal, financial, or any other connection that could cause either party to be improperly influenced by the other and that the proposed independent entity will perform its responsibilities as it relates to the PHA-owned units in an unbiased manner. The certification must be dated and signed by the executive director, or equivalent position, of the PHA and the independent entity. The certification must clearly state the name, address, and point of contact for both the PHA and the proposed independent entity.

The HUD Office of Public Housing retains the discretion to accept the certification on its face or to request additional information, or to use information available to the HUD Office, to question the validity of the certification.

- (b) When to submit. The PHA must submit the independent entity for approval before the function to be performed by the entity takes place. In determining when to submit the independent entity for approval, a PHA must consider the functions that are required to be performed by the independent entity, whether the PHA will use more than one independent entity for different functions, the HUD processing time, and how all of these elements interplay with the expected action (HCV HAP contract execution, homeownership closing, PBV proposal selection, etc.).
- (c) Using different independent entities. If the PHA plans to use different independent entities to perform different functions, or different independent entities at different projects, the PHA must submit for approval each independent entity it plans to use and identify the function the entity will perform. PHAs are not required to submit all independent entities at the same time.
- (d) Previously approved independent entities. Once an independent entity has been approved by HUD, the PHA may use that same independent entity for other PHA-owned units or for other functions. If the PHA will use an independent entity to perform a function other than the function for which the independent entity was previously approved, then the PHA must certify in writing to HUD that it will use a previously HUD-approved independent entity to perform a new function, which must be identified in the certification. The certification must include the name of the independent entity and be dated and signed by the executive director, or equivalent position, of the PHA. The certification must clearly state the name, address, and point of contact for both the PHA and the independent entity. The entity must be qualified to perform the function or the local HUD Office of Public Housing may deny approval. For example, a law firm that was previously approved to review a PBV selection review process

may not be an appropriate independent entity for the purpose of conducting inspections.

- (4) Payment for independent entity services. Payment for services performed by the independent entity are the responsibility of the PHA (24 CFR 983.59(d)). The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve (i.e., Unrestricted Net Position)). The PHA may not use other HUD program receipts to compensate the independent entity for its services. MTW agencies may use other sources of funds for these purposes provided that such use is consistent with the MTW agency's HUD-approved MTW plan. Neither the PHA nor the independent entity may charge any family that occupies or will occupy a PHA-owned unit any fee for the services provided by the independent entity.

Attachment C: Percentage Limitation (Program Cap) and PHA Submission Requirements

Regulation: 24 CFR §983.6

HOTMA Reference: Sec. 106(a)(2), which amends Sec. 8(o)(13)(B) of the Act

Applicable Program: PBV

Summary of Change: Under HOTMA, a PHA may project-base up to 20 percent of its Consolidated Annual Contributions Contract (ACC) authorized units, instead of 20 percent of its voucher budget authority. HOTMA also establishes a 10 percent exception to this program cap (discussed in Attachment D), for units that meet the exception criteria. The changes implemented by the January 18, 2017, implementation notice supersede the reporting requirements at 24 CFR §983.6 and are explained in detail in paragraph (2), below. This Attachment C supersedes Notice PIH 2015–05, Section II, in its entirety.

Content: As described below, HOTMA authorizes a PHA to attach PBV assistance to not more than 20 percent of its ACC authorized units instead of 20 percent of its voucher budget authority. For purposes of this provision, the term “authorized units” means the number of units under the PHA’s current ACC. A PHA may confirm this number in the Inventory Detail feature of the Inventory Management System/PIH Information Center (IMS/PIC). IMS/PIC may be accessed at the following HUD webpage: [Inventory Management System \(IMS\)/PIH Information Center \(PIC\)](#).

HOTMA did not change the requirement that a PHA provide advance notice to its HUD field office of its intent to project-base vouchers. While a PHA is no longer required to submit evidence of sufficient budget authority as part of this advance notice, it must still ensure that it will have budget authority sufficient to cover the PBV HAP contract at the point of contract execution.

Among other things, this Attachment describes what must be submitted to HUD, when it must be submitted, how it must be submitted, and how HUD will respond.

- (1) **Calculations.** Appendix I provides PBV program cap calculation instructions that complement a sample *PBV Program Cap Calculation Worksheet*. The sample worksheet is available at the following webpage: [PBV Program Cap Calculation Worksheet](#). Use of the sample worksheet is optional, and submission to HUD is not required.
- (2) **Revised requirements for notification to HUD.**
 - (a) **What must be submitted.** The PHA must submit to the local HUD Office of Public Housing all of the following information:
 - (i) The number of units authorized under the ACC for the PHA;
 - (ii) The number of PBV units entirely excluded from the percentage limitation (as described in Attachment F of this notice);
 - (iii) The number of units qualifying under the 10 percent program cap exception category (as described in Attachment D of this notice);
 - (iv) The number of units currently committed to PBV (excluding those PBV

units meeting an exception under Attachment D or F of this notice). To arrive at the “number of units committed to PBV,” total the number of units that are:

- (I) Currently under PBV HAP contract;
 - (II) Under an Agreement to Enter into HAP contract (AHAP); and/or
 - (III) Covered by a notice of proposal selection (24 CFR §983.51(d)); and
- (v) The number of units to which the PHA is proposing to attach project-based assistance through the new RFP or selection.
- (b) When a PHA must submit information to HUD. The above information must be submitted no later than 14 calendar days prior to undertaking any of the following actions:
- (i) Issuing a request for proposals (RFP) (24 CFR §983.51(b)(1));
 - (ii) Selecting a project based on a previous competition (24 CFR §983.51(b)(2)); or
 - (iii) If applicable, selecting a project without following a competitive process (see Attachment L of this notice).
- (c) How to submit information to HUD. The required information must be submitted by email to pbvsubmission@hud.gov.
- (d) HUD response. HUD will respond to the submission by email, identifying whether HUD has identified any issues with the submission. For example, if there is a material error in the PHA’s calculations that would result in the PHA exceeding the 20 percent percentage limitation, HUD will inform the PHA of this via email. A PHA must await a response from HUD prior to proceeding with the proposal.

HUD’s review and approval of the submission does not mean that it has confirmed availability of the PHA’s budget authority, as this is the responsibility of the PHA.

Attachment D: PBV Percentage Limitation — 10 Percent Increase for Eligible Units

Regulation: 24 CFR §983.6

HOTMA Reference: Sec. 106(a)(2), which amends Sec. 8(o)(13)(B) of the Act

Applicable Program: PBV

Summary of Change: Under HOTMA a PHA may project-base an additional 10 percent of its ACC authorized units above the 20 percent program limit, provided the additional units fall into one of the eligible exception categories.

Content: In this Attachment, the eligible exception categories are explained. The units eligible for inclusion in this 10 percent exception category may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For example, if 10 percent of ACC authorized units is 100, the PHA may project base 50 units for homeless families and 50 units for units providing supportive housing to persons with disabilities or elderly persons.

(1) Exception Categories.

- (a) Homeless.** The units are specifically made available to house individuals and families who meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR §578.3. The definition of homeless is included below for convenience:¹
 - (i)** An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
 - An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
 - (ii)** An individual or family who will imminently lose their primary

¹ See Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of Care Program; Interim Final Rule.

nighttime residence, provided that:

- The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - No subsequent residence has been identified; and
 - The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- (iii) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 1437e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- (iv) Any individual or family who:
- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to

their primary nighttime residence;

- Has no other residence; and
- Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

- (b) Veterans. The units are specifically made available to house families that are comprised of or include a veteran. A veteran is an individual who has served in the United States armed forces. The PHA may further define “veteran” in its Administrative Plan for purposes of determining if the units are eligible for this exception. For example, a PHA may choose to include in its definition of “veteran” an individual with an “other than dishonorable” discharge status who is ineligible for healthcare provided through the Veterans Health Administration. PHAs have discretion in establishing verification of eligibility.

HUD-awarded vouchers specifically designated for project-based assistance out of HUD-VASH appropriated funding are already excluded from the program cap and are not to be included under this 10 percent exception category. See Attachment F of this notice for additional information.

- (c) Supportive services. The units provide supportive housing to persons with disabilities or to elderly persons. For the purpose of this exception, supportive housing means: A project that makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing. Such services may include (but are not limited to):

- meal service adequate to meet nutritional need;
- housekeeping aid;
- personal assistance;
- transportation services;
- health-related services;
- case management;
- child care;
- educational and employment services;
- job training;
- counseling; or
- other services designed to help the recipient live in the community as independently as possible.

A PHA must include in its Administrative Plan the types of services offered to families for a project to qualify for the exception and the extent to which such services will be provided (e.g., length of time services will be provided to a

family, frequency of services, and depth of services). Such supportive services need not be provided by the owner or on-site, but must be reasonably available to the families receiving PBV assistance in the project. A PHA must not require participation in the supportive services as a condition of living in an excepted unit.

In accordance with 24 CFR §983.354, with the exception of an assisted living facility, the owner of a PBV project may not require the assisted family to pay charges for meals or supportive services, and non-payment of such charges by the family is not grounds for termination of tenancy. In the case of an assisted living facility (as defined in 24 CFR §983.3) receiving PBV assistance, owners may charge families for meals or supportive services. These charges may not be included in the rent to owner or the calculation of reasonable rent.

- (d) Poverty rate of 20 percent or less. The units are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates. A project that qualifies for the increased project cap at the time of HAP contract execution continues to qualify for the exception for the length of the contract regardless of changes in the poverty rate for the census tract in which the project is located. To view poverty rates by census tract, click [here](#).

The above categories are separate and distinct from exceptions to the income-mixing requirement (project cap), which limits the number and percentage of units within a particular project to which PBV assistance may be attached. These exceptions are discussed in Attachment E of this notice. (Units that are exempt from both the program cap and the project cap are discussed in Attachment F.)

- (2) Impact on existing contracts. PBV units that fall into one of the four categories listed above may be covered by this 10 percent exception authority only if the units are covered under a HAP contract that was first executed on or after April 18, 2017 (the effective date of the January 18, 2017, implementation notice).

Units added on or after April 18, 2017, through an amendment of a HAP contract that was first executed prior to April 18, 2017, are not eligible for this 10 percent exception authority.

A PHA need not meet the 20 percent program cap before it can designate eligible units for the 10 percent exception category. For example, if a PHA has project-based 10 percent of its units under the percentage limitation and wants to project-base 5 percent of its units under the 10 percent exception category, it may do so. This PHA would have 10 percent remaining under the percentage limitation and 5 percent remaining under the 10 percent exception authority.

A PHA proposal that would result in the PHA exceeding either the 20 percent program cap or the 10 percent exception from the program cap will be rejected by the HUD field office. As long as a PHA has not exceeded the 30 percent limit, it may correct its proposal by moving units from one category to the other, as long as only eligible units are counted toward the 10 percent exception from the program cap.

- (3) Submission requirements. See Appendix I on calculating the number of voucher units that may be project-based. If a PHA wishes to add PBV units under this exception authority, then the PHA must identify the exception category for which the additional units will be project-based and the specific number of units that qualify under the exception category in its transmittal of the submission requirements described in Attachment C of this notice.

Attachment E: Income-Mixing Requirement (Project Cap)

Regulation: 24 CFR §983.56(a), 24 CFR §983.56(b)(1) and (2), 24 CFR §983.261(c) and (d)

HOTMA Reference: Sec. 106(a)(3), which amends Sec. 8(o)(13)(D) of the Act

Applicable Program: PBV

Summary of Change: HOTMA amends the income-mixing requirement for an individual project (i.e., the project cap) so that the limitation on the number of PBVs in a project is now the greater of 25 units or 25 percent of the units in a project. Previously, the limitation was 25 percent of the units in a project.

HOTMA also makes changes to the exceptions to the project cap. The following units are excluded from the 25 percent or 25-unit project cap:

- Units exclusively serving elderly families.
- Units housing households eligible for supportive services available to all families receiving PBV assistance in the project.

Also, units in projects that are in a census tract with a poverty rate of 20 percent or less are subject to a higher (40%) cap.

Lastly, HOTMA provides that HUD may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a PBV HAP contract.

The previous statutory definition of project for these purposes remains the same. That is, a project may be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. See Appendix II, paragraph (7), of this notice for more information.

Content:

- (1) Project cap. The limitation on the number of units that may be project-based in an individual project is now the greater of 25 units or 25 percent of the units in a project. Below is an example to help illustrate this change. This example is meant only to illustrate this change, and does not take into account the exceptions discussed later in this section.

Project Cap: Example

Total Units in ABC Project	60
Post-HOTMA Project Cap (greater of 25 units or 25 percent of units in project)	25
Pre-HOTMA Project Cap (25 percent of units in project)	15

If a project contains 25 or fewer units, the PHA may place every unit in the project under the PBV HAP contract.

- (2) Exceptions to project cap. An exception to the project cap means that a particular category of units is excluded altogether from the 25 percent or 25-unit project cap. As of April 18, 2017, the exceptions to the project cap are:

- Units exclusively serving elderly families.
- Units housing households eligible for one or more supportive services available to all families receiving PBV assistance in the project.

A PHA is not limited with respect to the number of units in a project it can make available for an excepted category or categories. A PHA may designate 100 percent of the units in a project for occupancy by an excepted category (or categories).

Prior to HOTMA, dwelling units specifically made available for households comprised of elderly families, families with a household member with disabilities, and families receiving supportive services were excepted from the project cap. HOTMA retains the exception for elderly families. It modifies the exception for families receiving supportive services so that such families must simply be “eligible for” supportive services (see section (3)(b) of this attachment). HOTMA eliminates the exception for families with a household member with disabilities.

With respect to PBV units that were excepted from the income mixing requirement under the pre-HOTMA exception for families with a household member with disabilities, the PHA must generally continue to operate under the terms of that existing contract. In other words, the pre-HOTMA exception for families with a household member with disabilities continues to apply for those units and the PHA would refer families with a household member with disabilities to the owner to fill vacancies for units covered by this pre-HOTMA exception under the HAP contract. See section 6 of this attachment for information on the impact of the HOTMA changes on excepted units for existing contracts and how changes can be made to serve additional populations.

Exceptions to Project Cap: Example

ABC Project has a total of 60 units. Twenty of the 60 units are PBV units specifically for elderly families. Units exclusively serving elderly families are excepted from the project cap. The project cap for ABC Project is 25 units (greater of 25 units or 15 units (25 percent of units in project)). A total of 45 units may be project-based in ABC Project (project cap of 25 plus the 20 excepted units).

- (3) Qualifying families. With respect to units excepted from the income mixing requirement under the HOTMA exception categories, the PHA may refer only qualifying families for occupancy of excepted units under (a) and (b) below.

- (a) Units for elderly families. Units that are exclusively made available to elderly families are excepted from the project cap. The term elderly family is defined in 24 CFR §5.403 as follows: “Elderly family means a family whose head

(including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.”

It is not necessary that the entire project or buildings within the project be designated as elderly in order for the exception to apply. Under the PBV program, projects are not “designated” as elderly as is the case in other programs, such as the Public Housing or Section 202 Elderly Programs. The owner must identify under the HAP contract, however, the particular number of units that are exclusively made available for elderly families. As each unit turns over, the PHA may amend the HAP contract to transfer the exception status from one unit to another, provided it is possible to substitute a different unit for the formerly excepted unit in the project in accordance with 24 CFR §983.207(a).

As provided under 24 CFR §983.262(e), a PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death or long-term or permanent hospitalization or nursing care of the elderly family member), the elderly family member no longer resides in the unit. In this case, the unit may continue to count 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 qualifying family, unless it is possible to transfer the exception status to another unit as described in the paragraph above.

- (b) Units for households eligible for supportive services. Under HOTMA, dwelling units that are exclusively made available to “households eligible for supportive services that are made available to the assisted residents of the project, according to the standards for such services the Secretary may establish” are excepted from the project cap. Previously, the supportive services exception applied only if the family was receiving supportive services.

In order for the supportive services exception to apply to a unit, the project must make supportive services available to all assisted families in the project, and the family must be eligible for one or more of the services. The family may, but is not required to, participate in the services. A PHA may not require participation in supportive services as a condition of living in an excepted unit, which means that a PHA may not rely solely on a supportive services program that would require the family to engage in the services once enrolled, such as the Family Self-Sufficiency (FSS) program, for the unit to qualify for the supportive services exception.

The exception applies to any household eligible for the supportive services and is not limited to households with a family member with a disability. The supportive services do not need to be provided by the owner or on-site, but the services must be reasonably available to the families receiving PBV assistance

in the project and designed to help the families in the project achieve self-sufficiency or live in the community as independently as possible.

A PHA must include in its Administrative Plan the type of services offered to families for the units to qualify under the exception and the extent to which such services will be provided (e.g., length of time services will be provided to a family, frequency of services, and depth of services). A PHA may offer FSS as part of the supportive services package, but must not rely solely on FSS to meet the exception.

HUD encourages PHAs to consider how the structure of their supportive services package may impact a family's continued eligibility for the supportive services and the unit's excepted status. The unit loses its excepted status if the family becomes ineligible for the supportive services during its tenancy, provided that: (i) the family becomes ineligible for *all* supportive services available to the family, *and* (ii) the family becomes ineligible for reasons other than successfully completing the supportive services objective. A family that becomes ineligible for the supportive services during its tenancy cannot be terminated from the program or evicted from the unit. If the unit loses its excepted status, and the PHA does not want to reduce the number of excepted units in its project-based portfolio, the PHA may:

- (i) Substitute the excepted unit for a non-excepted unit if it is possible to do so in accordance with 24 CFR §983.207(a). A PHA may wish to consider whether adding units to the HAP contract is an appropriate strategy to allow for the substitution of units. For example, Bay View Project has a total of 100 units. 50 of those units are under a PBV HAP contract and are all excepted units. In this case, the PHA may add non-excepted units to the contract (provided it is possible to do so under PBV requirements) to allow for the substitution of the excepted unit for the non-excepted unit. See section 6 of this attachment for more information on adding units to existing HAP contracts.
- (ii) Remove the unit from the PBV HAP contract, and provide the family with tenant-based assistance. Once the family has moved from the unit, add the unit back to the contract in accordance with 24 CFR §983.207(b), as amended by HOTMA. Any family newly admitted to the unit must be eligible for supportive services in order for the unit to retain its excepted status.

In the case of a family that chooses to participate in the supportive services, as described by the PHA in the Administrative Plan, and successfully completes the supportive services objective, as defined by the PHA in its Administrative Plan, the unit will continue to be an excepted unit under this category for as long as the family resides in the unit.

- (4) Other units not subject to the percentage limitation and project cap. The details and requirements of this exception category are described in Attachment F of this notice.

- (5) Increased project cap. Up to the greater of 25 units or 40 percent (instead of the greater of 25 units or 25 percent) of the units in a project may be project-based when the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates. A project that qualifies for the increased project cap at the time of HAP contract execution continues to qualify for the exception for the length of the contract regardless of changes in the poverty rate for the census tract in which the project is located. To view poverty rates by census tract, click [here](#).

HOTMA also provides that the 40 percent unit exception applies to projects in areas where vouchers are difficult to use, as determined by HUD. HUD has not yet defined and implemented the exception authority for these “difficult to use” areas. Therefore, the 40 percent exception applies only to census tracts with poverty rates of 20 percent or less until further notice.

Increased Project Cap: Example

ABC Project has a total of 80 units. ABC Project is located in a census tract with a poverty rate of 20 percent or less. The project cap for ABC Project is 32 units (greater of 25 units or 32 units (40 percent of units in project)).

- (6) Effect on existing contracts. Owners under HAP contracts in effect prior to April 18, 2017, the effective date of the January 18, 2017, implementation notice, remain obligated by the terms of those HAP contracts with respect to the requirements that apply to the number and type of excepted units in a project. That is, the owner must continue to designate the same number of contract units and assist the same number and type of excepted units as provided under the HAP contract during the remaining term of the HAP contract, unless the owner and the PHA mutually agree to change those requirements.

Effect on Existing Contracts: Example

An owner has a PBV HAP contract for a 20-unit project, and the HAP contract provides that 15 of those units were excepted from the 25 percent income-mixing requirement, because the units are designated for elderly families. The owner must continue to designate those units for occupancy by elderly families, notwithstanding the fact that the statutory limit on PBV has been increased to 25 units, unless the owner and the PHA mutually agree to change the terms of the assistance contract.

The PHA and owner may agree to change such HAP contract requirements as it pertains to the exception categories of elderly families and families eligible for

supportive services. The PHA and owner must not change the terms of an existing HAP contract to add a new category of excepted unit (such as those under a rent restriction as defined in Attachment F of this notice), because those provisions may only be applied to contracts that become effective on or after April 18, 2017, the effective date of the January 18, 2017, implementation notice.

For projects that are using the former supportive services statutory exemption (which required that the family be receiving the supportive services) and /or the exemption for families with a household member with disabilities, the PHA and the owner will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and the owner agree by mutual consent to change the conditions to conform with the HOTMA requirement. The PBV HAP contract may not be changed to conform with the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at the project (e.g., the excepted units at the project include units designated for families with a household member with disabilities, and changing to the HOTMA standard would result in those units no longer being eligible as excepted units unless the owner makes supportive services available to all assisted families in the project).

A HAP contract may be amended, at the discretion of the PHA, to add additional PBV units in the same project. PHAs may use this amendment process to add units where applying the new project cap definition results in more PBV units. For example, ABC Project has a total of 60 units. The pre-HOTMA project cap was 15 units. The post-HOTMA project cap is 25 (greater of 25 units or 15 units (25 percent of units in project)). The existing PBV HAP contract had no excepted units. The PHA, at its discretion, may amend the HAP contract to add the 10 additional units that result from the HOTMA project cap definitional change.

As it pertains to the amendment process to add new units to an existing HAP contract, HOTMA overrides existing regulation, so that new units may be added at any time during the term of the HAP contract without being subject to competitive selection procedures. See Attachment J for more information about this change. All other requirements of 24 CFR §983.207(b) must be met, including not exceeding the 20 percent program cap (see Attachment C of this notice for more information on the 20 percent program cap).

- (7) No HUD notification requirement. Unlike the program cap, there is no requirement to submit PBV project cap information to HUD.

Attachment F: Units Not Subject to Percentage Limitation (Program Cap) or Income-Mixing Requirement (Project Cap)

Regulation: 24 CFR §983.6, 24 CFR §983.56(a), 24 CFR §983.56(b)(1) and (2)

HOTMA Reference: Sec. 106(a)(2), which amends Sec. 8(o)(13)(B) of the Act, and Sec. 106(a)(3), which amends Sec. 8(o)(13)(D) of the Act

Applicable Program: PBV

Summary of Change: HOTMA provides that certain units do not count toward the PBV percentage limitation and are exempt from the income-mixing requirement when PBV assistance is attached to them.

Content: The following categories of units are excluded from both the percentage limitation and the income-mixing requirement if placed under HAP contract on or after April 18, 2017:

- (1) Excepted units. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the percentage limitation or the income-mixing requirement.

The following categories of units in (a) or (b) are eligible for this exception provided they also meet the conditions described in (c) below:

- (a) The unit received one of the following forms of HUD assistance:
- (i) Public Housing Capital or Operating Funds (section 9 of the Act);
 - (ii) Project-Based Rental Assistance (section 8 of the Act), including units assisted under the section 8 moderate rehabilitation (Mod. Rehab.) program and Mod. Rehab. single-room occupancy (SRO) program;
 - (iii) Housing for the Elderly (section 202 of the Housing Act of 1959);
 - (iv) Housing for Persons with Disabilities (section 811 of the Cranston-Gonzalez National Affordable Housing Act);
 - (v) The Rent Supplement (Rent Supp) program (section 101 of the Housing and Urban Development Act of 1965);
 - (vi) Rental Assistance Program (RAP) (section 236(f)(2) of the National Housing Act); or
 - (vii) Flexible Subsidy Program (section 201 of the Housing and Community Development Amendments of 1978).

or

- (b) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:
- (i) Section 236;
 - (ii) Section 221(d)(3) or (d)(4) BMIR;
 - (iii) Housing For the Elderly (section 202 of the Housing Act of 1959);
 - (iv) Housing for Persons With Disabilities (section 811 of the Cranston-

Gonzalez National Affordable Housing Act); or

- (v) Flexible Subsidy Program (section 201 of the Housing and Community Development Amendments of 1978).

Units that were previously receiving PBV assistance or HCV tenant-based assistance are not covered by this exception.

- (c) In addition to having received HUD assistance or having been subject to rent restrictions as described in parts (a) and (b) above, the unit must meet the following applicable conditions to qualify for this exception:

- (i) PBV Existing and Rehabilitated Units.

For units that will be placed under PBV as existing or rehabilitated units:

- (I) The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017; *and*
 - (II) In the 5 years prior to the date the PHA either (aa) issued the RFP under which the project was selected, or (bb) selected the project based on a prior competition or without competition, the unit met at least one form of assistance or was subject to a rent restriction as described above. If the existing/rehabilitated project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR §983.51(d).

- (ii) PBV New Construction.

A newly constructed unit developed under the PBV program may also be excluded from the limitation, provided the unit qualifies as a replacement unit. The unit must meet *all* of the following requirements to meet this exception to the limitation:

- (I) The unit that the PBV newly constructed unit is replacing (i.e., the original unit) must have received one of the forms of HUD assistance or must have been subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than 5 years from the date the PHA either:
 - (aa) Issued the RFP under which the PBV new construction project was selected; or
 - (bb) Selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR §983.51(d).

- (II) The newly constructed unit is located on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project qualifies as the same site as long as a majority of the replacement units is built back on the site of the original development, and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.
 - (III) One of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that previously existed at the site, as evidenced by *at least one* of the following:
 - (aa) Former residents of the original project are provided with a selection preference that provides the residents with the right of first occupancy at the PBV new construction project; or
 - (bb) Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.
 - (IV) The HAP contract first became effective on or after April 18, 2017.
- (2) Unit-size configuration, number of units. The unit-size configuration of a PBV new construction or rehabilitation project may differ from the unit-size configuration of the original project that the PBV units are replacing. In addition, the total number of PBV assisted units may differ from the number of units in the original project. However, under no circumstances may the percentage limitation exception be applied to units that exceed the total number of covered units in the original project. For example, a PBV new construction project will consist of a total of 50 PBV units and is replacing a former section 236 project consisting of 40 units. The maximum number of PBV units that would meet the program and project limitation exception would be 40 units. The remaining 10 PBV units would count against the program and the project limitation.
- (3) Applicability of PBV project-selection requirements. For owner proposals involving excepted units for existing, rehabilitated, and newly constructed properties, the standard requirements for selecting projects and the units for PBV assistance — including consistency with the PHA Plan, the goals of deconcentrating poverty and expanding housing and economic opportunities, site selection, and all civil rights requirements — remain in effect. The only difference is that any PBV assistance provided to these properties does not count against the 20 percent program cap and may be used to project-base up to 100 percent of the units in the project. The provisions of Notice PIH 2013–27 that concern the voluntary relinquishment by families of enhanced voucher assistance for PBV assistance remain in effect. This means that, in the event of a Housing Conversion Action at a project, HCV assistance may be project-based at the project, but only if the requirements of Notice PIH 2013–

27 are met. Units at the project for which a family has voluntarily relinquished enhanced voucher assistance for PBV assistance do not count against a PHA's program cap, nor the income-mixing requirement.

These exceptions may be applied only to projects that were not already under HAP contract as of April 18, 2017 (the effective date of the January 18, 2017, implementation notice). The exception may not be applied retroactively to projects under HAP contracts that commenced before April 18, 2017, or subsequently applied at the extension of those HAP contracts.

(4) Other units not subject to the percentage limitation or income-mixing requirement.

(a) RAD. HUD has waived the statutory and regulatory provisions regarding the 20 percent percentage limitation for RAD PBV units. Under HOTMA, neither are such units subject to the income-mixing requirement, as long as they meet the conditions in section (1) of this attachment. This means that a PHA that is administering RAD PBV assistance does not take the voucher units attributable to the RAD PBV contracts into consideration when calculating the 20 percent limitation. In other words, the units committed to RAD PBV are excluded from both the numerator and the denominator when calculating the number of voucher units that may be project-based. This exception applies regardless of the effective date of the HAP contract.

(b) HUD-VASH. HUD has awarded vouchers specifically designated for project-based assistance out of the HUD-VASH appropriated funding made available from the FY 2016, FY 2015, FY 2014, FY 2013, FY 2011, and FY 2010 Appropriations Acts. Since these PBV HUD-VASH set-aside voucher allocations were made specifically for PBV assistance, HUD has determined that the PBV units supported by those vouchers will not count against the PHA's PBV program cap, for as long as the vouchers remain under PBV HAP contract at the designated project.. This means that a PHA will exclude these PBV HUD-VASH units from both the numerator and the denominator when calculating the number of authorized ACC units that are available for project-basing.

All other HUD-VASH vouchers, including non-set aside HUD-VASH vouchers that a PHA chooses to project-base, are subject to the percentage limitation.

Calculations. See Appendix I for instructions on how to calculate the number of voucher units that may be project-based when certain units no longer count toward the percentage limitation.

(5) Reporting requirement. If a PHA wishes to add PBV units under the program cap exceptions described above, then the PHA must provide the number of PBV units to which it will be attaching PBV assistance under this exception authority to HUD no later than 14 calendar days prior to the date that the PHA intends to issue the RFP or make the selection. The PHA must indicate the specific exception that covers the units. This information must be submitted by email to pbvsubmission@hud.gov.

A PHA is not required to report future RAD projects for which it will be attaching

PBV assistance, or future HUD-VASH awarded vouchers specifically designated by HUD for project-based assistance. Unlike the program cap, there is no requirement to submit PBV project cap information to HUD.

Attachment G: PBV HAP Contract: Initial Term and Extensions

Regulation: 24 CFR §983.205

HOTMA Reference: Sec. 106(a)(4) & (5), which amend Secs. 8(o)(13)(F) & (G) of the Act

Applicable Program: PBV

Summary of Change: HOTMA amends Sec. 8(o)(13)(F) of the Act to provide that the initial term of a Housing Assistance Payments (HAP) contract may be up to 20 years (increased from 15 years) and Sec. 8(o)(13)(G) to provide that a contract may be extended for an additional 20 years (again, increased from 15 years).

Content: This section overrides 24 §CFR 983.205(a) and (b) only with respect to the length of the initial term and the extension of the term of the HAP contract. Otherwise, all of the other requirements of those regulations remain in effect, including the requirement on the timing of extensions following the initial extension of the contract term. (The timing of when extensions of the term may be approved is described in detail below.)

- (1) Initial term. As of April 18, 2017, a PHA may enter into a new PBV HAP contract with an owner with an initial term of up to 20 years. As was the case previously, the length of the initial term of the HAP contract may not be less than one year.
- (2) Maximizing the initial term. For any PBV HAP contract that is still within the initial term, the PHA and the owner may mutually agree to extend the contract for up to the maximum initial term of 20 years.

For example, if the HAP contract has an initial term of 15 years with an effective date of January 1, 2015, the initial term of the contract ends on December 31, 2029. At any time before the end of the initial term, the PHA and owner may mutually agree to extend the initial term for an additional 5 years to reach the 20 year maximum initial term. For instance, in this example the PHA and owner may extend the initial term to December 31, 2034, provided they do so no later than December 31, 2029.

However, if the HAP contract is no longer in the initial term, the PHA and owner *cannot* extend the initial term, although they may enter into an extension beyond the initial term (see below).

Assume the PHA and owner entered into a HAP contract with a 10 year initial contract term on January 1, 2000. The initial term ended on December 31, 2009. During the initial term, the PHA and owner extended the contract term for 10 additional years. As a result, the HAP contract remains in effect until December 31, 2019. In this case, the PHA and owner are not able to extend the initial term of this HAP contract to 20 years because the contract already is beyond the initial term. (However, the PHA and owner may mutually agree to further extend the current 10 year extension as discussed below.)

- (3) Extension of the term. The PHA may extend the term of the contract for up to 20 years at any time during the initial HAP contract term, provided the PHA determines an extension is appropriate to continue providing affordable housing for low-income families.

The PHA may extend the term multiple times at any time during the term of the

contract, provided that extension beyond the initial term does not exceed 20 years, cumulatively. (See examples below.)

- (4) Subsequent extensions beyond 20 years. A PHA may further extend the HAP contract beyond 20 years from the end of the initial term as long as the following conditions are met:

- (a) The PHA must determine such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities;
- (b) This determination must be made no earlier than 24 months prior to the expiration of the HAP contract.
- (c) The term of the new extension may not exceed 20 years.

Regardless of the length of the extension, all such extensions must meet these same conditions.

- (5) PHA owned units. In the case of PHA-owned units, any changes to the term of an initial HAP contract or any contract extension must be agreed upon by the PHA and the independent entity, in accordance with 24 CFR §983.59.
- (6) Initial Term and Extension Examples. The following examples are intended to illustrate a number of common scenarios regarding HAP contract initial terms and extensions.

Scenario 1

The PHA and owner wish to enter into a new PBV HAP contract effective January 1, 2018, for the maximum time period that is permitted under the PBV program. The maximum contract term that the PHA may commit is 40 years.

Contract	Term	Start Date	End Date	Notes
Initial Term	20 yrs	1/1/18	12/31/37	Maximum 20 year term.
Extension	20 yrs	1/1/38	12/31/57	PHA may extend at any time before 12/31/37.
Total Term	40 yrs	1/1/18	12/31/57	Any further extension may not be determined prior to 12/31/55 (24 months prior to expiration date of the 20-year extension.)

Scenario 2

HAP contract is currently in effect with the following term:

Current Term	Term	Start Date	End Date	Comments
Initial Term	15 yrs	1/1/16	12/31/30	PHA and owner entered into a 15 year initial term, which was the maximum initial term at the time.
Extension	15 yrs	1/1/31	12/31/45	PHA and owner have previously agreed to 15 year extension.
Total Term	30 yrs	1/1/16	12/31/45	Contract is at pre-HOTMA maximum term of 30 years.

Following the implementation of the HOTMA provision, for example in July 2017, the PHA and owner mutually agreed to extend this contract's initial term and the extension to the maximum term that is permitted under HOTMA.

Revised Term	Term	Start Date	End Date	Comments
Initial Term	20 yrs	1/1/16	12/31/35	Because the HAP contract is still in the initial term, the initial term may be adjusted. It is now the maximum 20 years.
Extension	20 yrs	1/1/36	12/31/55	PHA and owner also revised the length of the existing extension to the 20 year maximum.
Total Term	40 yrs	1/1/16	12/31/55	Contract is at post-HOTMA maximum term of 40 years. PHA may consider further extension but not until 12/31/53.

Scenario 3

The HAP contract has the following terms.

Current Term	Term	Start Date	End Date	Comments
Initial Term	10 yrs	1/1/05	12/31/14	Initial term is over.
Extension	15 yrs	1/1/15	12/31/29	PHA and owner have previously agreed to 15 year extension.
Total Term	25 yrs	1/1/05	12/31/29	Contract is currently for 25 years.

Following the implementation of the HOTMA provision, the PHA decides it wants to extend the contract so that the term is 40 years. However, the PHA cannot extend the initial term since it has already been completed. The PHA is also limited to extending

the contract beyond the initial term to no more than 20 years at the present time. The maximum term the PHA could provide at this time is 30 years, with the understanding that the PHA will consider further extending the contract when the contract is within 24 months of the revised expiration date.

Revised Term	Term	Start Date	End Date	Comments
Initial Term	10 yrs	1/1/05	12/31/14	No change – the initial term is already over and may not be extended.
Extension	20 yrs	1/1/15	12/31/34	After April 18, 2017, the PHA and owner have now increased the extension from 15 years to the maximum of 20 years beyond the end of the initial term.
Total Term	30 yrs	1/1/05	12/31/34	Contract has maximum term of 30 years.
Future Extension	May not exceed 20 years	1/1/35	TBD	PHA may consider further extension no earlier than 12/31/32 (24 month requirement).

Scenario 4

The PHA enters into a new HAP contract effective 1/1/18 for the maximum 20 year initial term. The PHA wishes to extend the contract but for no more than 10 years at a time.

Contract Term	Term	Start Date	End Date	Comments
Initial Term	20 yrs	1/1/18	12/31/37	
Potential Extension #1	10 yrs	1/1/38	12/31/47	PHA may approve this first extension anytime before the initial term expires on 12/31/37.
Potential Extension #2	10 yrs	1/1/48	12/31/57	PHA may approve this second extension anytime before the first extension expires on 12/31/47.
Potential Extension #3	10 yrs	1/1/58	12/31/67	PHA may not make the determination to approve this extension earlier than 12/31/55 (24 months prior to the expiration of the previous extension), because any further extension will exceed the 20-year limit from the end of initial term.

Contract Term	Term	Start Date	End Date	Comments
Potential Extension #4	10 yrs	1/1/68	12/31/77	PHA may not make the determination to approve this future extension earlier than 12/31/65 (24 months prior to the expiration of the previous extension), because the contract is now more than 20 years beyond the end of the initial term.

Once the extension beyond the initial term has reached 20 years, cumulatively, the PHA may not further extend the contract without first determining such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities, and the PHA may not make that determination more than 24 months prior to the expiration of the previous extension. In this example, the PHA must fulfill that requirement starting with the 3rd potential extension, since the combination of the first and second extensions (each for 10 years) have reached the 20 year maximum.

Attachment H: Priority of PBV HAP Contracts

Regulation: 24 CFR §983

HOTMA Reference: Sec. 106(a)(4), which provides for a new Sec. 8(o)(13)(F)(i)(I) of the Act

Applicable Program: PBV

Summary of Change: HOTMA establishes a new Sec. 8(o)(13)(F)(i)(I), which requires that, in the event appropriated funds are insufficient to fund all vouchers administered by a PHA, the PHA must implement cost-savings measures before terminating any PBV HAP contract.

Content: Cost-saving measures that must be taken prior to terminating assistance contracts are found in Notice PIH 2011–28 (“Cost-Saving Measures in the Housing Choice Voucher (HCV) Program”) or subsequent notices. If a PHA implements all of these cost-saving measures and still has insufficient funds to cover its housing assistance payments, then the PHA may choose to terminate payments under its HCV or PBV programs.

A PHA may identify in its Administrative Plan any additional cost-saving measures that it will implement prior to terminating HCV or PBV assistance.

A PHA may determine which type of assistance (HCV or PBV) to terminate first and must identify in its Administrative Plan the factors it considered in making this determination.

Attachment I: PBV Biennial Inspections

Regulation: 24 CFR §983.103

HOTMA Reference: Sec. 106(a)(4), which amends Sec. 8(o)(13)(F) of the Act

Applicable Program: PBV

Summary of Change: HOTMA modifies the statutory language regarding the inspection of PBV-assisted units to clarify that biennial inspections of PBV-assisted properties may be conducted using a sample of units. There is no change to the regulatory requirements at 24 CFR §983.103.

Content: The HOTMA change merely clarifies that the use of sampling is authorized for PBV-assisted units; it does not affect the guidance in Notice PIH 2016–05 (“Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies”), which remains in effect. Additionally, HOTMA does not change 24 CFR §983.103(d), governing biennial inspections. Attachment K to Notice PIH 2016–05 provides guidance to PHAs that wish to adopt alternative inspection methods.

Attachment J: Adding Units to PBV HAP Contract Without Competition

Regulation: 24 CFR §983.207(b)

HOTMA Reference: Sec. 106(a)(4), which provides for a new Sec. 8(o)(13)(F)(ii) of the Act

Applicable Program: PBV

Summary of Change: Prior to HOTMA, the regulation at §983.207(b) stipulated that a HAP contract could be amended to add units only during the 3-year period following the HAP execution date, and that, within this timeframe, a new PBV Request for Proposals would not be required. HOTMA overrides the regulation, stating that new units may be added at any time during the term of the HAP contract without being subject to competitive selection procedures.

Content: As of April 18, 2017, any existing PBV HAP contract, including a contract entered into prior to April 18, 2017, may be amended to add units by mutual agreement of the PHA and owner without competitive selection. The amendment is subject to all PBV requirements, including those requirements described below.

- (1) Percentage limitation. The amendment must comply with Sec. 8(o)(13)(B) and 24 CFR §983.6, which require that a PHA may project-base not more than 20 percent of its authorized units, with some types of units excepted from this program cap. HOTMA changed how this percentage limitation is to be calculated. See Attachment C and Appendix I of this notice for instructions on how to make the calculation and report the results to HUD, both of which must be done prior to amending a contract to add units.
- (2) Income-mixing requirement (project cap). The amendment must comply with Sec. 8(o)(13)(D) and 24 CFR §983.56, which limit the number or percentage of units in any one project to which PBV assistance may be attached, with exceptions for certain types of units. HOTMA made changes to the income-mixing requirement. See Attachment E of this notice for further information on the PBV income-mixing requirement. Any units added on or after April 18, 2017, must fall under one of the HOTMA exception categories in order for the unit to be excepted from the income-mixing requirement.
- (3) Rent reasonableness. The rents for the units added to the contract via amendment must comply with Sec. 8(o)(10)(A) and §983.303, which require that rents be reasonable. If the units newly added to the contract have rents that do not exceed the rents charged for units under the original contract or for comparable unassisted units in the project, then the rents for the newly added units will be considered to be reasonable.
- (4) Administrative Plan. Whether to add units to a contract is an option that is available at the discretion of a PHA. A PHA that intends to add PBV units in this manner must state in its Administrative Plan that it will do so and must provide its rationale for adding PBV units to specific projects.
- (5) Amendment of RAD PBV HAP contract. A PHA may not amend a RAD PBV HAP contract to add units above the number included in the initial contract.

A PHA may amend its PBV HAP contract to add units without competitive selection during the term of an initial HAP contract or during the term of any extension of that contract. The

amendment may also occur at the point of initial contract extension or at the point of any subsequent extension, so that the contract extension will have a greater number of units than the previous contract. However, the anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally in place under the HAP contract.

24 CFR §983.58(c) does not apply when PBV units are added to a current PBV HAP contract. In other words, an environmental review is not required, and there is therefore no need for any sort of determination by a responsible entity.

Attachment K: PBV Contract Termination or Expiration without Extension

Regulation: 24 CFR §983

HOTMA Reference: Sec. 106(a)(4), which provides for a new Sec. 8(o)(13)(F)(iv) of the Act

Applicable Program: PBV

Summary of Change: With respect to a PBV HAP contract, HOTMA requires the contract to specify that, upon termination or expiration of the contract without extension, an assisted family may elect to remain in its unit and use the assistance previously provided under the contract, as long as the unit meets HUD's housing quality standards and the rent for the unit is reasonable. In such a circumstance, the family may choose to move or to remain in the unit. If the family remains, it will pay its required share of the rent in addition to the amount, if any, by which the gross rent exceeds the applicable payment standard. HOTMA also authorizes HUD to establish additional contract conditions.

Content: This provision applies to all PBV HAP contracts in effect as of April 18, 2017, and all contracts entered into on or after April 18, 2017. HOTMA establishes for PBV-assisted families a right to remain in the project at the end of the PBV HAP contract with tenant-based assistance for as long as the project is used for rental housing and the unit is otherwise eligible for HCV assistance.

- (1) Owner notification. For any contract entered into prior to April 18, 2017, that remains in effect on that date, a PHA must notify the owner in writing that this provision is in effect. The notice must contain the following language:

“Pursuant to Section 106(a)(4) of the Housing Opportunity Through Modernization Act of 2016 and Paragraph 26.b. of Part 2 of the PBV HAP Contract for Existing Housing or Paragraph 27.b. of Part 2 of the PBV HAP Contract for New Construction or Rehabilitation, such contract is amended to provide that, upon termination or expiration of the contract without extension, each family assisted under the contract may elect to use its assistance to remain in the same project if the family's unit complies with the inspection requirements under section 8(o)(8) (42 U.S.C. 1437f(o)(8)) of the U.S. Housing Act of 1937 (“the 1937 Act”), the rent for the unit is reasonable as required by section 8(o)(10)(A) of the 1937 Act, and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard.”

Any contract entered into on or after April 18, 2017, must include this language.

- (2) Statutory notice. Per the statutory notice requirements at Sec. 8(c)(8) and 24 CFR §983.206, not less than 1 year prior to the termination or expiration without extension of a HAP contract, an owner must provide notice to both the PHA and affected tenants. An owner who fails to provide such notice must permit tenants to remain in their units for the required notice period with no increase in the tenant portion of the rent. During this time period, an owner may not evict a tenant as a result of the owner's inability to collect an increased tenant portion of rent. With PHA agreement, an owner may renew the terminating contract for a period of time sufficient to give tenants 1 year's advance notice. For families who wish to remain at the property, the

HCV assistance does not commence until the end of the owner's required notice period.

- (3) Housing quality standards. In order for the family to remain at the project with tenant-based HCV assistance, the unit must meet the HQS requirements of the HCV tenant-based program, including initial inspection requirements. HOTMA made a number of changes related to the initial inspection requirements. (See Notice PIH 2017–20, issued October 27, 2017.)
- (4) Effective date of HCV HAP and family leases. The transition from PBV HAP units to HCV HAP units will require the PHA and owner to plan to assure continued payments for families under lease and continued payments to the owner of units under HAP. The following requirements apply:
 - (1) A PHA may execute an HCV HAP contract before the PBV HAP contract terminates, but the HCV HAP contract may not be effective prior to the PBV contract termination or expiration date.
 - (2) A PHA may not commence the tenant-based HCV housing assistance payment to an owner until the HCV tenant-based HAP contract has been executed.
 - (3) The HCV HAP contract may not be executed before the PHA approves the assisted tenancy in accordance with 982.305. An HCV HAP contract for a family must be executed no later than 60 calendar days from the start of the family's lease. PHAs are encouraged to approve the assisted tenancy and execute the HCV HAP contract without need for the 60-day grace period. If this is not possible, then, as long as the HCV HAP contract is executed during the 60-day grace period, once it has been executed, the PHA may pay the owner retroactively to the start date of the family's lease term.
 - (4) If the HCV HAP contract has a different rent than did the PBV HAP contract, and the new rent is determined by the PHA to be reasonable, then the PHA will use the new gross rent to calculate the family's HCV HAP going forward. The family will be responsible for paying the new family rent to owner starting from the effective date of the HCV HAP contract.
- (5) Inapplicability of HCV eligibility requirements. Per the current definition of "admission" in 24 CFR §983.3, a family that receives a tenant-based HCV pursuant to this newly enacted provision is not a new admission to the HCV program and is not subject to income-eligibility or any other admission requirement. The family does not count toward the PHA's income-targeting requirements at 24 CFR §982.201(b)(2)(i).
- (6) Termination of tenancy by owner. An owner may not terminate the tenancy of a family that exercises its right to remain except for in response to serious or repeated lease violations, or other good cause.
- (7) Family payment toward rent. A family that remains in its unit with continued tenant-based HCV assistance must pay the total tenant payment (determined under 24 CFR part 5 subpart F) and any additional amount by which the unit rent exceeds the applicable payment standard. The family's initial share of the rent may exceed 40 percent of the family's adjusted monthly income, irrespective of the normally

applicable restriction on the amount a family may pay when initially assisted in any unit at 24 CFR §982.305(a)(5).

- (8) HCV program rules. All other HCV program rules apply to families who remain in the project.

With respect to additional contract conditions, HUD has chosen not to adopt any such conditions at this time.

Attachment L: Attaching PBVs to Certain PHA-Owned Projects Without Following a Competitive Process

Regulation: 24 CFR § 983.51(b)

HOTMA Reference: Sec. 106 (a)(9), which adds Sec. 8(o)(13)(N) to the Act

Applicable Program: PBV

Summary of Change: HOTMA adds section 8(o)(13)(N) to the Act, which allows a PHA to attach PBV assistance to units in a project in which the PHA has an ownership interest or over which the PHA has control without following a competitive process. In order to exercise this authority, the PHA must be engaged in an initiative to improve, develop, or replace a public housing property or site.

Content:

- (1) PHA ownership interest. A project does not have to meet the definition of PHA-owned in order for the PHA to have an ownership interest in the project and to be covered by this HOTMA provision. An ownership interest means that the PHA or its officers, employees, or agents are in an entity that holds *any direct or indirect interest* in the project in which the units are located, including, but not limited to, an interest as: titleholder; lessee; stockholder; member, or general or limited partner; or member of a limited liability corporation. For purposes of this authority, a PHA ownership interest also includes a scenario in which the PHA is the lessor of the ground lease for the land upon which the PBV project to improve, develop, or replace the public housing property is located or will be constructed. Units that meet the definition of “PHA-owned” as defined here qualify for this exception. Alternatively, just having an ownership interest for the purpose of this provision does not equate with meeting the definition of PHA-owned as defined in Attachment A.
- (2) Conditions for non-competitive selection. In order to be subject to this non-competitive exception, the following conditions must be met:
 - (a) The PHA must be engaged in an initiative to improve, develop, or replace the public housing properties or sites. The public housing properties or sites may be in the public housing inventory or they may have been removed from the public housing inventory through any available legal removal tool (which may include but is not limited to disposition or demolition under Section 18 of the Act, voluntary conversion under Section 22 of the Act, or required conversion under Section 33 of the Act) within 5 years² of the date on which the PHA entered into the AHAP or HAP pursuant to the non-competitive selection.
 - (b) If the PHA plans rehabilitation or new construction, a minimum threshold of \$25,000 in hard costs per-unit is required.
 - (c) If a PHA plans to replace public housing by attaching project-based assistance to existing housing in which the PHA has an ownership interest or over which the PHA has control, then the \$25,000 per-unit minimum threshold does not

² The date on which the unit was removed from IMS/PIC serves as the start date for the 5-year window.

apply as long as the existing housing substantially complies with HUD's housing quality standards. The PHA's Administrative Plan must describe what it means to "substantially comply with HUD's housing quality standards."

- (d) The PHA must explain in its Administrative Plan the work it plans to do on the property or site and how many units of PBV it plans to add. See Administrative Plan requirements in the Appendix II to this notice.
- (3) Other PBV requirements. In order to be non-competitively selected under this provision, the units must be eligible for PBV assistance in accordance with 24 CFR §983.53, and the selection of the units must satisfy all other statutory and regulatory requirements of the PBV program. Unless otherwise exempt, units non-competitively selected under this section are subject to the program cap and income-mixing requirements and exceptions discussed in Attachment F.

Attachment M: Project-Basing Family Unification Program and HUD-VASH Vouchers

Regulation: 24 CFR §983

HOTMA Reference: Sec. 106(a)(9), which added a new Sec. §8(o)(13)(O) of the Act

Applicable Programs: HCV and PBV

Summary of Change: HOTMA allows PHAs to project-base Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) vouchers without requiring additional HUD approval. Prior to HOTMA, PHAs were prohibited from project-basing vouchers awarded for FUP. HUD-VASH vouchers could be project-based, but required HUD review and approval in accordance with Notice PIH 2015–10 (this applied to HUD-VASH vouchers the PHA chose to project-base and not to HUD-VASH units awarded under a HUD-VASH PBV allocation as described in Attachment F of this notice). This notice supersedes Notice PIH 2015–10 in its entirety.

PHAs conduct their HUD-VASH programs in conjunction with the Veterans Affairs Medical Center (VAMC). The VAMC must make supportive services available to individuals receiving HUD-VASH assistance. Thus, when a PHA chooses to project-base its HUD-VASH vouchers, it must ensure the VAMC will continue to make supportive services available to the HUD-VASH families.

Content: HOTMA authorizes PHAs to project-base FUP and HUD-VASH vouchers in accordance with the statutory and regulatory requirements of the PBV program.

(1) Considerations. HUD encourages PHAs wishing to project-base FUP or HUD-VASH vouchers to include in their considerations whether the activity:

- Will yield significant benefit to participants;
- Will impact the availability of tenant-based FUP or HUD-VASH vouchers;
- Will impact voucher utilization; and

In determining whether project-basing will yield significant benefit to FUP or HUD-VASH participants, HUD encourages PHAs to consider:

- The impact on choice and access to areas of higher opportunity.
- The success of FUP and HUD-VASH participants with tenant-based vouchers.
- How project-basing will improve FUP or HUD-VASH participants' access to supportive services.

In determining the impact of project-basing on the availability of tenant-based FUP or HUD-VASH vouchers, HUD encourages PHAs to consider:

- The extent of FUP or HUD-VASH vouchers to be project-based (percent of total FUP or HUD-VASH allocation).
- Unit size. FUP youth and HUD-VASH veterans typically require a smaller unit size, while FUP families typically require a larger unit size. Unit size determination will impact the availability of budget authority to issue vouchers (i.e., a large unit may cost more than a small unit).
- The 36-month time limit on youth FUP vouchers and whether youth will be less or

more likely to request a voucher to move.

Project-basing FUP vouchers may be a part of a PHA strategy to provide supportive housing to youth and families. PHAs may leverage the project-based units with community based services and supports. Following this model would also allow a PHA to project-base additional units as a result of the service provision. (See Attachment E.)

When a PHA chooses to project-base their HUD-VASH vouchers, they must ensure they have the support of the partnering VAMC. The PHA should maintain this documentation of support for their records.

- (2) Coordinated entry and referrals. PHAs may work with their local Continuum of Care (CoC), in cooperation with their local Public Child Welfare Agency (PCWA), to prioritize entry into FUP PBV units to ensure that the units are targeted to people who most need supportive housing. For HUD-VASH, VA partners would ensure that the units are targeted to people who most need supportive housing.

For FUP, PCWAs and PHAs may accept referrals from CoCs for eligible youth in support of a community's effort to prioritize assistance in FUP PBV units. Referrals from CoCs must be signed off on by the PCWA. For HUD-VASH, all referrals come from the partnering VAMC.

- (3) Limiting FUP vouchers to one category of FUP eligible families. A PHA that chooses to project-base FUP vouchers may limit the project-based vouchers to one category of FUP eligible participants (families or youth) or a combination of the two. FUP vouchers that are limited to youth cannot exclude eligible youth with children consistent with the nondiscrimination requirements under the Fair Housing Act. For example, a PHA may project-base vouchers at a service-rich site for youth. PHAs generally do not similarly limit HUD-VASH project-based vouchers to a category of eligible participants, unless the units are specifically for elderly HUD-VASH families.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Appendices

Appendix I. PBV Program Cap Calculation Instructions

This appendix provides step-by-step instructions that complement a sample *PBV Program Cap Calculation Worksheet* that may be found here: [PBV Program Cap Calculation Worksheet](#). The instructions and sample worksheet follow the same organizational structure. As applicable, the instructions reference corresponding step and line numbers of the worksheet.

Use of the worksheet is optional. PHAs may use another form to calculate and submit the program cap information to HUD.

Summary Table

PHAs are advised to complete Steps 1 through 5 of the worksheet first and then review the “Summary Table.” This table contains embedded formulas that automatically calculate, among other things, the 20 percent program cap and the 10 percent program cap exception category, based on the information entered by the PHA in Steps 1 through 5. PHAs will be unable to enter information in the Summary Table.

Based on the number of units a PHA has already project-based, the number it proposes to project-base, the number of such units that are part of the exception category, and the number that are excluded entirely from the program cap, the Summary Table will show whether the PHA’s proposal will push it above the applicable program cap(s).

In cases where a PHA’s submission will place the PHA above a program cap, the Summary Table will display in red the percent available under the respective cap. For example, if a PHA proposes to project-base 11 percent of its available ACC units under the 10 percent exception category, then the 10 percent program cap field in the summary table will be highlighted in red. The PHA must then either reduce the number of exception units it proposes to project-base or, if the 20 percent cap has not been met, it may move units to the 20 percent program cap category. Likewise, if the PHA’s proposal will cause it exceed the 20 percent cap, then it may move units to the 10 percent exception category, but only if the units are eligible and there is room within the 10 percent category for additional units.

General Instructions for Completing Steps 1 through 5

In the column titled “HUD Approved,” enter the total number of units currently under a PBV HAP contract, under an Agreement to Enter into a HAP contract (AHAP), and/or covered by a notice of proposal selection.

In the column titled “Proposed,” enter the number of units proposed for project-basing.

In Steps 2 through 5, enter a zero in each category that is not applicable to your agency.

A unit that qualifies under more than one exception category must be recorded in only one such category.

PHA Information – (lines 2-6):

Instruction: Enter the PHA number in line 2 and the PHA name in line 3.

Enter the name of the person most familiar with the information on the worksheet in line 4 and that person’s email in line 5.

Enter the date the *PBV Program Cap Calculation Worksheet* is being completed in line 6.

Step 1: Number of ACC Authorized Units (Baseline) – (line 17)

Instruction: In line 17, record the number of authorized units (as described in Attachment C of this notice). This number may be found in the Inventory Management System/PIH Information Center (IMS/PIC).

As Steps 2 and 3 are completed, the number in line 17 may be reduced. This is because Steps 2 and 3 involve tabulating units that are exempt from the program cap.

Step 2: PBV Units that Previously Received Long-Term HUD Housing Subsidies, or were Subject to a Rent Restriction as a Result of Certain HUD Loan Insurance Programs (For PBV HAP Contracts that First Became Effective on or After April 18, 2017) – (lines 20-28)

Instruction: Record units that were previously subject to certain federal rent restrictions or that received another type of long-term housing subsidy provided by HUD that do not count toward the program cap when PBV assistance is attached (as described in Attachment F of this notice). Lines 20-28 of the *PBV Program Cap Calculation Worksheet* lists the categories applicable under this step. Units entered in any of the categories under this step must fully comply with the conditions described in Attachment F of this notice.

Line 29 automatically calculates the total based on the information entered in lines 20-28. PHAs will be unable to enter information in line 29.

Step 3: Other PBV units excluded from program cap calculation – (lines 32-35)

Instruction: Record other units excluded from the program cap (as described in Attachment F of this notice). There are two categories under this step: RAD units (components 1 and 2) and HUD-VASH units awarded under a HUD-VASH PBV set-aside allocation as described in Attachment F of this notice. These categories are listed in lines 32 through 34.

Line 35 automatically calculates the total based on the information entered in lines 32-34. PHAs will be unable to enter information in line 35.

Step 4: PBV Units Categorized Under 10% Increase for Eligible Units (For PBV HAP Contracts First Executed On or After April 18, 2017) – (lines 38-41)

Instruction: Record units that qualify under the 10 percent program cap exception (as described in Attachment D of this notice). Lines 38-41 of the *PBV Program Cap Calculation Worksheet* list the categories applicable under this step.

Any PBV units awarded under a HUD-VASH PBV set-aside allocation will not qualify under this step. They must instead be entered under Step 3, above. Any HUD-VASH vouchers the PHA chooses to project-base as described in Attachment M of this notice may be recorded here if they qualify for the 10 percent exception category described in Attachment D of this notice.

Line 42 automatically calculates the total based on the information entered in lines 38-41. PHAs will be unable to enter information in line 42.

Units added on or after April 18, 2017, through an amendment of a HAP contract that was first executed prior to April 18, 2017, are not eligible for this 10 percent exception authority.

Step 5: Total PBVs not Meeting an Exception (not contained in steps 2-4 above) – (lines 45-46)

Instruction: In line 45, record the number of HUD-approved units that do not meet the criteria for being included under Steps 2, 3, or 4, above. In line 46, record such units that the PHA proposes to project-base.

Appendix II. PHA Plan, Administrative Plan, and Other PBV Topics

This appendix addresses PHA Plan requirements, Administrative Plan requirements, and other PBV topics. It contains provisions of Notice PIH 2011–54 that are unchanged by HOTMA, provisions that are added or changed by HOTMA, and additional guidance on the PBV program that HUD is implementing via this appendix.

PHA Plan Requirements

In accordance with Section 7.0 of the PHA Plan Template (see Notice PIH 2015–18 (*Availability of New and Revised Public Housing Agency (PHA) Five-Year and Annual Plan Templates and Other Forms*)) and the requirements of HOTMA, if a PHA intends to use the PBV program, it must provide the projected number of PBV units, their general locations, the work it plans to do on the property or site, how many units of PBV it is planning on adding to the site, and how project-basing is consistent with its PHA Plan. Any amendment to the PHA Plan regarding PBVs must be in accordance with 24 CFR 903.7(r)(2)(ii), which requires the PHA to identify the basic criteria for determining a significant amendment or modification to its 5-year or annual PHA Plan. When amending a PHA Plan, the agency must follow 24 CFR 903.21 which, in part, provides for adoption by the board of directors or similar governing body and public notice and comment.

Administrative Plan Requirements

Listed below are those policies and procedures that must be addressed in the PHA's Administrative Plan.

- (1) Unchanged by HOTMA:
 - (a) The procedures for owner submission of PBV proposals and for selection of those proposals, such as method of providing public notice, deadline for submission and selection factors. See 24 CFR 983.51(a), (b) and (c). If the PHA intends to use both competitive and non-competitive procedures, it must describe under what conditions it will use each method of selection. It is acceptable for a PHA to state that it will only use competitive selection procedures when non-competitive selection is not applicable. However, if the PHA intends to use both competitive and non-competitive selection of proposals, the procedures above must be described in the Administrative Plan.
 - (b) The standard for deconcentrating poverty and expanding housing and economic opportunities must be described in the Administrative Plan in accordance with 24 CFR 983.57(b)(1). In addition, the PHA must establish its policy for selection of PBV sites and describe how the site selection policy promotes PBV goals.
 - (c) Applicants for PBV units must be selected from the PHA's waiting list. The PHA's Administrative Plan must describe how applicants will be selected. There are various options for a PHA in establishing PBV waiting lists. It may use separate lists for tenant-based assistance and PBV assistance or it can use one list for both. The PHA may establish separate waiting lists for different PBV projects or buildings (or for sets of such units). Different preferences may be established for each PBV waiting list. PHAs may take referrals from PBV

owners. However, all new applicants and families currently on the PHA's tenant-based waiting list must be provided with the option to have their names placed on all/any open waiting lists that the PHA maintains for assisted housing. See 24 CFR 983.251. PHAs do not have to notify each family on the tenant-based waiting list by individual notice. A PHA could notify these applicants by the same means it would use in opening its waiting list under 24 CFR §982.206(a). A non-exclusive or exhaustive list of suggestions are: (1) advertising through local and minority newspapers and the internet; (2) local postings at post offices, libraries, and community centers; and (3) an outreach to social service organizations that may serve the same clientele that will be occupying the PBV units.

- (d) Any tenant screening done by the PHA must be stated in the Administrative Plan. See 24 CFR 983.255(a).
 - (e) The PHA must have a policy in its Administrative Plan regarding family occupancy of wrong-size or accessible units. In cases where, after initial tenancy, the family is occupying a wrong-sized unit or a unit that has accessibility features not required by the family, it must describe the form(s) of continued assistance it will offer the family. See 24 CFR 983.260(b).
 - (f) At the PHA's discretion, the PBV HAP contract may provide for vacancy payments to the owner. Therefore, the PHA must decide if it will pay such vacancy payments as defined under 24 CFR 983.352. The maximum vacancy payment can be no more than two full months of monthly rent to owner under the assisted lease after the month the family moves out minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Vacancy payments can only cover the portion of time the unit remains vacant during the period defined.
- (2) Added or Changed by HOTMA:
- (a) If a PHA plans to exceed the cap on the number of units in a project that may have PBV attached for non-elderly families (i.e., the greater of 25 dwelling units or 25 percent of the dwelling units in any project), the Administrative Plan must describe the types of services offered to families for a project to qualify for the exception and to the extent to which such services will be provided. Such supportive services need not be provided by the owner or on-site, but must be reasonably available to the families receiving PBV assistance in the project. A PHA may not require participation as a condition of living in an excepted unit for HAP contracts executed on or after April 18, 2017. although such services may be offered. See Attachment E of this notice for more information.
 - (b) A PHA must detail its intent to add PBV units without competition to an existing HAP contract along with its rationale for adding PBVs to the specific project.
 - (c) If A PHA has insufficient funds to cover its housing assistance payments, then the PHA must take cost-saving measures prior to terminating assistance

contracts. The list of cost-saving measures is found in Notice PIH 2011–28 (“Cost-Saving Measures in the Housing Choice Voucher (HCV) Program”) or subsequent notices. If a PHA implements all of these cost-saving measures and still has insufficient funds to cover its housing assistance payments, then the PHA may choose to terminate payments under its HCV or PBV programs. A PHA may identify in its Administrative Plan any additional cost-saving measures that it will implement prior to terminating HCV or PBV assistance. A PHA may decide which type of assistance (HCV or PBV) to terminate first and must therefore identify in its Administrative Plan the factors it will take into consideration when deciding which type of assistance to terminate first. A PHA may identify in its Administrative Plan any additional cost-saving measures that it will implement prior to terminating HCV or PBV assistance and must identify in its Administrative Plan the factors it will take into consideration when deciding which type of assistance to terminate first.

- (d) A PHA that will, without following a competitive process, attach PBVs to a public housing project in which it has an ownership interest or over which it has control, must detail the work it plans to do on the public housing property or site that it is improving, developing, or replacing and must state how many units it plans to project-base at the property or site. If the PHA plans to replace public housing by attaching PBVs to existing housing in which the PHA has an ownership interest or over which the PHA has control, then the existing housing must substantially comply with HUD’s housing quality standards, and the PHA must describe in its Administrative Plan what it means to “substantially comply with HUD’s housing quality standards.”
- (e) A PHA making PBV units (not HUD-VASH) specifically available to house families that are comprised of or include a veteran under the exception category described in Attachment D of this notice must define “veteran.”

Additional administrative policies regarding HQS will be addressed in another notice.

(3) Additional PBV Guidance Implemented via this Appendix:

- (a) A PHA may adopt a policy in its FSS Action Plan that allows families that have left the FSS program without completing the FSS contract to re-enroll in the FSS program. If the PHA would like to adopt such a policy for non-FSS families that have failed to complete their supportive services requirements, then that policy must be included in the PHA’s Administrative Plan.
- (b) The PHA’s Administrative Plan must define the term “project.” See paragraph (7) of this Appendix II for more information.
- (c) The Administrative Plan must address the effective dates of the Small Area FMR designation, if applicable, and how this will apply to PBV units in accordance with 24 CFR 888.113(h).

Other PBV Topics

- (1) Agreement to Enter into a Housing Assistance Payments (AHAP) Contract.³ For any projects involving new construction or rehabilitation, an AHAP must be executed prior to the start of any construction or rehabilitation. An AHAP is not required for existing units. The requirements regarding an AHAP are detailed in 24 CFR §983.152. A PHA may not execute an AHAP until a subsidy layering review and an environmental review are completed.
- (2) Subsidy Layering Review (SLR). The purpose of an SLR is to avoid excess subsidy. See 24 CFR §983.55 and 79 Fed. Reg. 57955 (Sept. 26, 2014). SLRs are required only for projects involving new construction and rehabilitation. The *Federal Register* notice, *Administrative Guidelines; Subsidy Layering Reviews for Section 8 Project-Based Voucher Housing Assistance Payments Contracts and Mixed-Finance Development*, issued on September 26, 2014, provides that qualified housing credit agencies (HCA) must follow certain administrative guidelines in performing subsidy layering reviews in accordance with the requirements of the Housing and Economic Recovery Act (HERA) of 2008 in those cases where the HCA elects to conduct such reviews for mixed-finance public housing projects and for newly constructed and rehabilitated structures combining other forms of government assistance with project-based voucher assistance.
- (3) Environmental Review. In accordance with 24 CFR 983.58, an environmental review is required for all PBV units including existing units. A PHA, an owner, or 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 until an environmental review is completed. Specifically, no AHAP for rehabilitated or new construction units may be executed until the environmental review is complete and no housing assistance payments (HAP) contract may be executed for existing units until the environmental review is completed.
- (4) Physical Accessibility. PBV projects must meet program accessibility requirements of 24 CFR 983.102. A PHA must ensure compliance with the accessibility requirements of Section 504 of the Rehabilitation Act (Section 504) and Title II of the Americans with Disabilities Act (ADA), as well as the design and construction requirements of the Fair Housing Act, as applicable. 24 CFR part 8 (Section 504); 24 CFR part 100 (Fair Housing Act); 28 CFR part 35 (Title II of the ADA).
- (5) Equal Opportunity and Civil Rights Requirements. A PBV program must comply with all applicable equal opportunity and nondiscrimination requirements as required by 24 CFR 983.8. The PHA must certify that it will carry out its 5-Year and Annual Plan in conformity with all applicable fair housing and civil rights laws and that it will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in its Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR §5.150 through §5.180, that it will take

³ This provision has been changed by HOTMA, but HUD has not yet implemented the change. The information in this section still applies until further notice.

no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs. 24 CFR 903.7(o). Under HUD's AFFH regulation, PHAs receiving assistance under Section 8 or Section 9 of the 1937 U.S. Housing Act are required to conduct and submit an AFH. 24 CFR §§5.150 et seq. See also 82 Fed. Reg. 4373 (Jan. 13, 2017).

- (6) Special Housing Types. Special housing types that are eligible to be assisted under the PBV program (i.e., single room occupancy units, congregate housing, group homes, and cooperative housing) are subject to the same inspection requirements and exceptions as any other PBV units. Of the special housing types, shared housing, manufactured home space rental, and the homeownership option are ineligible to be assisted under the PBV program. PHAs must consider requests for reasonable accommodations that may be necessary for a qualified individual with disabilities to benefit from the program (in accordance with the Fair Housing Act, Section 504 of the Rehabilitation Act, title II of the Americans with Disabilities Act and implementing regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR 35.130). For example, approval of a live-in aide may be necessary as a reasonable accommodation. Reasonable accommodations are determined on a case-by-case basis.
- (7) Definition of Project. The PBV statute defines project as a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. This definition was unchanged by HOTMA. PHAs have discretion to define a project within the parameters of the statutory definition. That is, a PHA may define a project as a single building, or as multiple contiguous buildings, or as multiple buildings on contiguous parcels of land.

PBV HAP contracts are executed for projects based on how the PHA has defined the term in its Administrative Plan. For example, if the PHA defines "project" as a single building, then one HAP contract is executed for each building being project-based.

Appendix III. Reporting

The content of this appendix comes from Section I of Notice PIH 2015–05. It is unchanged (with the exception of VMS reporting) and is simply included here in order to consolidate PBV guidance. Sections II and III of Notice PIH 2015–05 were changed by HOTMA and are therefore revised in the respective applicable attachments of this notice.)

Timely Reporting Requirements of the Family Report (form HUD-50058 and form HUD-50058 MTW) into the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) and Timely Submissions into the Voucher Management System (VMS) for Project-Based Vouchers.

- (1) Reporting PBV in IMS/PIC. To ensure that families occupying PBV units are recorded properly in IMS/PIC, PHAs must complete section 11 (Section 8: Project Based Certificates and Vouchers), lines 11b through 11an, as applicable, of the form HUD-50058. The remaining sections of the form HUD-50058 must be completed the same as for regular Housing Choice Voucher (HCV) participants with the following exceptions:
 - (a) Action Codes 10, Issuance of a Voucher and 11, Expiration of Voucher. Action codes 10 and 11 do not apply to the PBV program. PHAs do not need to enter action code 10 or 11 on the form HUD-50058 for participants that will occupy PBV units.
 - (b) Payment Standards. Payment standards do not apply to the PBV program.
 - (c) Portability. Since portability does not apply to the PBV program, action codes 4 (portability move-in) and 5 (portability move-out) must not be used on line 2a. Also, lines 11d through 11f must be left blank.

MTW PHAs administering PBV must complete section 21, MTW Tenant-Based or Project-Based Assistance, of the form HUD-50058 MTW. The remaining sections of the form HUD-50058 MTW must be completed as normal *except* for 21m, Flat Subsidy Amount, which does not apply to the PBV program.

- (2) Correcting the Form HUD-50058 Report when Section 12 was Incorrectly Used. In cases where a PHA has reported a PBV participant in section 12, *Housing Choice Vouchers: Tenant Based Vouchers*, of the form HUD-50058 in error, the PHA must correct the record by entering the family data in section 11 no later than the family's next recertification. Section 11 must be used for families participating in the PBV program since, under the PBV program, families never pay more than TTP (as reflected in section 11 of the 50058).

PHAs that correct an error must determine if the participant has been paying an incorrect rent amount. If so, the PHA must correct the errors starting from the time the incorrect reporting began and reimburse any amounts owed to the family.

- (3) Reporting Voucher Issuance. A family participating in the PBV program is eligible for tenant-based voucher assistance under the HCV program after the family's first year in occupancy in the PBV unit, if and when such assistance (or other comparable assistance) becomes available. When the PHA issues a family receiving PBV assistance a HCV, it must enter action code 10 on the form HUD-50058. The PHA

continues to record the participant as VO on line 1c of the form HUD-50058 and does not enter an End of Participation (EOP) entry for the participant. If the PHA cannot enter a portability move out (action code 5) on the form HUD-50058 (line 2a) for a PBV family that wants to port, the PHA should contact its PIC coach. HUD is aware that this is an issue with PBV family reports and will work with PHAs to resolve this issue until the PIC system can be modified to accept this action code for PBV families who want to port.

- (4) Timely IMS/PIC Reporting. Through Notice PIH 2011–65, HUD established the requirement of timely submission of form HUD-50058 and form HUD-50058 MTW. The Department requires that form HUD-50058 must be submitted no later than 60 calendar days from the effective date of any action recorded on line 2b.
- (5) Timely VMS Submissions. Notice PIH 2012–21 is applicable to all PHAs administering the voucher program and establishes submission requirements for the VMS. The Department uses VMS data for budget formulation, cash management, monitoring, determining renewal funding levels, and funding-related factors under the Section Eight Management Assessment Program (SEMAP). Therefore, it is imperative that PHAs comply with VMS reporting requirements and timelines, ensuring that the information submitted is both timely and accurate. The data submitted in the VMS is subject to verification and review by the PIH Office of Housing Voucher Programs Quality Assurance Division. PHAs are required to submit leasing and cost data in the VMS on a monthly basis; each month's data is submitted during the subsequent month. The VMS is available for regular submissions from the 4th through the 22nd of each month. Adjustments to previous months' reported VMS data may be entered at any time by utilizing the Prior Month Correction (PMC) module. Additional information such as how to use the system, prior month corrections, viewing data and generating reports is found in the VMS User's Manual.⁴

VMS data reporting is time sensitive, and requests to extend submission deadlines will not be considered. However, PHAs that are not able to meet reporting deadlines due to circumstances beyond their control must notify the FMC at Financial_Management_Center@hud.gov. PHAs that do not submit the required data by the reporting deadline may be subject to a withholding or offset of administrative fees.

- (a) Reporting the number of PBVs under an AHAP, but not under a HAP. In this field, the PHA reports the number of PBVs under an AHAP only. These units are not reported in any other field.
- (b) Reporting the number of PBVs under a HAP and leased. In this field, the PHA reports the total number of PBVs that are under a HAP contract and leased. These units and associated expenses are also reported in the field that best describes the type of voucher being used (Tenant Protection, All Other Vouchers (AOV), etc.)

⁴ Click [here](#) to be taken to the online version of the VMS *User's Manual*.

- (c) Reporting the number of PBVs under a HAP contract that are not leased and not receiving vacancy payments. These vouchers are not reported in any other field, but are eligible for administrative fees.
 - (d) Reporting the number of PBVs under a HAP contract and not leased with Vacancy Payments and Associated Vacancy HAP expenses. In this field, the total number of PBVs that are under a HAP contract and are not leased, but are receiving vacancy payments. These vouchers are not reported in any other field but are eligible for administrative fees.
 - (e) Reporting HAP Expenses. Include the number of PBVs under a HAP contract and not leased with Vacancy Payments and Associated Vacancy HAP Expenses. The total HAP expense associated with PBVs under a HAP contract and not leased with vacancy payments. These expenses are also reported in the AOV HAP expense field. NOTE: RAD Rehab Assistance payments should not be reported in the field, but should be reported in the RAD 1 HAP expense field.
- (6) Non-Compliance. Pursuant to 24 CFR §982.152(d), HUD may reduce or offset any administrative fee to the PHA, in the amount determined by HUD, if the PHA fails to perform PHA administrative responsibilities correctly or adequately under the program (for example, failure to submit form HUD-50058 or to complete VMS data reporting on a timely basis or at all).

If the PHA fails to comply with reporting requirements, HUD may reduce the PHA's administrative fees. The reduction will be calculated beginning the first day of the month following the submission closing due date. The monthly reduction will continue until such time as the PHA complies with the reporting requirements or a waiver is granted. The imposition of such reductions will be communicated under separate cover and may represent a permanent reduction in funding for administrative fees for the current calendar year that shall not be reversed. However, this will not impact the baseline administrative fee calculations.

Appendix IV. HCV, Homeownership, and PBV Inspection Requirements

- (1) Overview. HCV program inspection requirements are governed by 24 CFR Part 982, Subpart I. Most HCV inspection requirements are applicable to the PBV program and to the Homeownership Option, but there are a number of HCV inspection requirements that do not apply to either of these programs:
- Table 1 lists the HCV inspection requirements that do not apply to the PBV program. The provisions not applicable to the PBV program are found at 24 CFR §983.2(c)(4) and 24 CFR §983.101(a).
 - Table 2 lists the HCV inspection requirements that do not apply to the Homeownership Option. The provisions not applicable to the Homeownership Option are found at 24 CFR §982.641(d).

Table 1: HCV Inspection Requirements Not Applicable to the PBV Program

Regulation	HCV Provision	Reason
24 CFR §982.401(j)	Lead-based paint requirements under 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 part 35, subparts A, B, M, and R.	While 24 CFR §982.401(j) does not apply to the PBV program, lead-based paint requirements apply to the PBV requirement by virtue of 24 CFR §983.4 and 24 CFR §983.101(c). Part 35, subparts A, B, H, and R (instead of subpart M) of the lead-based paint implementing regulations apply to the PBV program.
24 CFR §982.402(a)(3)	Entering the unit size on the voucher issued to the family.	Not applicable to the PBV program — unlike the HCV program, PBV families are not issued a Housing Choice Voucher.
24 CFR §982.402(c)	Effect of family unit size in the amount of subsidy.	Not applicable to the PBV program — unlike the HCV program, payment standards are not used to determine the amount of rent paid by a family under the PBV program.
24 CFR §982.402(d)	Size of unit occupied by the family.	Not applicable to the PBV program — unlike the HCV program, payment standards are not used to determine the amount of rent paid by a family under the PBV program.
24 CFR §982.403	Terminating the HAP contract when the unit is too small.	PBV requirements for family occupancy of wrong-size units are found at 24 CFR §983.260.

24 CFR §982.405(a)	PHA requirement for initial and periodic unit inspection.	Requirements on timing of inspections for the PBV program are found at 24 CFR §983.103.
24 CFR §982.406	Enforcement of HQS — neither the family nor any other party other than the PHA or HUD, has the right to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA for alleged failure to enforce HQS.	HQS enforcement provisions related to the PBV program are found in 24 CFR §983.101(d).

Table 2: HCV Inspection Requirements Not Applicable to the Homeownership Option

Regulation	HCV Provision	Reason
24 CFR §982.403	Terminating the HAP contract when the unit is too small.	Not applicable to the Homeownership Option — unlike the HCV program, there is no HAP contract between the PHA and the landlord under the Homeownership Option.
24 CFR §982.404	Owner and family responsibility for maintenance of the unit and PHA remedies.	Not applicable to the Homeownership Option — unlike the HCV program, the family is not under a lease but is rather the owner of the unit. Family obligations under the Homeownership Option are found at 24 CFR §982.633.
24 CFR §982.405	PHA requirement for initial and periodic unit inspection.	Not applicable to the Homeownership Option — unlike the HCV program, the PHA is not required to conduct periodic inspections after the initial inspection, although the PHA may establish a policy in its Administrative Plan that periodic inspections will be conducted.

PBV program-specific inspection requirements, which supplement the HCV inspection requirements that do apply to the PBV program, are found at 24 CFR Part 983, Subpart C. Likewise, program-specific inspection requirements specific to the Homeownership Option are found at 24 CFR §982.631(a).

See Attachment I of this notice for more information on PBV biennial inspection requirements.

- (2) PBV Pre-Selection Inspections. PHAs are required to inspect the proposed site before the selection proposal date. This requirement is applicable to all housing types (existing, new, and rehabilitated housing). Pre-selection inspection considerations include, but are not limited to, adequacy of streets and utilities, and whether the size, contour, and exposure of the property is suitable for the planned development.