PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

PHA PLAN

5 Year Plan for Fiscal Year 2012-2016
Annual Plan for Fiscal Year 2012

REVISED November 2012

BENTON HARBOR HOUSING COMMISSION

PHA Number: MI010

1.0	**PHA Information** PHA Name: Benton Harbor Housing Commission _____ PHA Code: __MI010_____ PHA Type: ☐ Small ☐ High Performing X Standard ☐ HCV (Section 8) ☐ Troubled Agency PHA Fiscal Year Beginning: (MM/YYYY): __10/2012_____
2.0	**Inventory** (based on ACC units at time of FY beginning in 1.0 above) **Number of PH units: _370_____** Number of HCV units: **__201_____**
3.0	**Submission Type** ☐ 5-Year and Annual Plan X Annual Plan Only ☐ 5-Year Plan Only
4.0	**PHA Consortia** ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.)

Participating PHAs	PHA Code	Program(s) Included in the Consortia	Programs Not in the Consortia	No. of Units in Each Program	
				PH	HCV
PHA 1:					
PHA 2:					
PHA 3:					

5.0	**5-Year Plan.** Complete items 5.1 and 5.2 only at 5-Year Plan update.
5.1	**Mission.** State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years:
5.2	**Goals and Objectives.** Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan.

6.0 PHA Plan Update 2012

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:
BHHC has revised the following Plan elements since its last Annual Plan submission;

BHHC has revised its Annual Plan to include:

Local preferences will be continued as is and will include policies as it relates to the working preference, rent policies remain the same, community service policy parameters were included in the agency lease, the agency ACOP and Administrative Plan were revised to reflect PIH notices for 2011-2012 agency documents were revised May 2012and finalized June 2012; the agency pet policy has already been implemented.

- BHHC has revised its Admission and Continued Occupancy Policy (ACOP) and HCVP (Section 8) Administrative Plan to incorporate new HUD program requirements governing the admission of the Public Housing Program and the Housing Choice Voucher Program.
- BHHC has revised its Admission and Continued Occupancy Policy (ACOP) and HCVP (Section 8) Administrative Plan to comply with FHEO Program requirements, the following definitions were added with clarification; **Location / Chapter 3: page 3-8**

(1) disabled family (2) A person with disabilities (3) Preference for Persons with Disability (4) Elderly and Disabled Family Deduction

- **Location / Chapter 2: page 2-2 BHHC** Policy / BHHC will comply with all federal, state and local nondiscrimination laws. BHHC is bound by state and local laws. Specifically the Michigan's Elliott-Larsen Civil Rights Act and Michigan's Persons with Disabilities Civil Rights Act govern BHHC in the conduct of its day-to-day operations.
- **BHHC is located in a Due-Process State /Grievance Procedures and Hearing requirements reflect this classification**

BHHC has revised and or acknowledged in its Admission and Continued Occupancy Policy (ACOP) and HCVP (Section 8) Administrative Plan to incorporate HUD PIH Notices.

- **PIH 2012-30** Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2013
- **PIH 2012-29** Establishing the Passbook Savings Rate-
- **PIH 2012-28** State Registered Lifetime Sex Offenders in Federally Assisted Housing-
- **PIH 2012-27** Calendar Year 2012 $20 Million Set-Aside for Financial Hardship due to Public Housing Operating Subsidy Allocation Adjustment -
- **PIH 2012-26 (HA)** Extension: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System-
- **PIH 2012-25** Non-Smoking Policies in Public Housing-not yet implemented
- **PIH 2012-24** Rent to Owners in subsidized projects under the Housing Choice Voucher (HCV) program-
- **PIH 2012-22** Application for Assistance Regarding Identification of Family Member, Friend or Other Persons or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing -
- **PIH 2012-21** Financial Reporting Requirements for the Housing Choice Voucher Program Submitted through the Financial Assessment Subsystem for Public Housing and the Voucher Management System
- **PIH 2012-17** Guidelines on Bedbug Control and Prevention in Public Housing
- **PIH 2012-16** Request for Applications under the Moving to Work Demonstration Program for Fiscal Year 2011-not yet applied will apply 2013
- **PIH 2012-15** Streamlining Administrative Practices in the Housing Choice Voucher Program -
- **PIH 2012-14** Guidance on Public Housing salary restrictions in HUD's Federal Fiscal Year (FFY) 2012 Appropriations Act (P.L. 112-55)
- **PIH 2012-13** Extension - Administering the Community Service and Self-Sufficiency Requirement (CSSR)
- **PIH 2012-11** Process for Public Housing Agency Voluntary Transfers and Consolidations of Housing Choice Vouchers, Five-Year Mainstream Vouchers, Project-Based Vouchers and Project-Based Certificates
- **PIH 2012-10** Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report -
- **PIH 2012-9** Implementation of the Federal Fiscal Year 2012 Funding Provisions for the Housing Choice Voucher Program-
- **PIH 2012-8** Guidance for Obtaining HUD Consent for Takings of Public Housing Property by Eminent Domain-
- **PIH 2012-7** Demolition/disposition of public housing and associated requirements for PHA Plans, resident consultation, Section 3 and application processing
- **PIH 2012-4** Effective Use of the Enterprise Income Verification (EIV) System's Deceased Tenants Report to Reduce Subsidy Payment & Administrative Errors
- **PIH 2012-2** Guidance on Public Housing Operating Funds
- **PIH 2012-1** Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments
- **PIH 2011-69** Prohibition on Exceeding Statutory Limitation of the Number of Public Housing Units
- **PIH 2011-67** Implementation of New Cash Management Requirements for the Housing Choice Voucher Program
- **PIH 2011-65** Timely Reporting Requirements of the Family Report (form HUD-50058 and form HUD- 50058 MTW) into the Public and Indian Housing Information Center
- **PIH 2011-64** Dun and Bradstreet Universal Numbering System (DUNS) Requirement
- PIH 2011-61 Extension—Guidance on requirement for PHAs to record current Declaration of Trusts (DOTs) against all public housing property and guidance on adding and removing public housing units and other property from the Annual Contributions Contract (ACC
- **PIH 2011-59**Reporting of Administrative Fee Reserves
- PIH 2011-58 Extension—Certification of accuracy of data in the Inventory Management/Public Housing Information Center System used to calculate the Capital Fund formula allocation
- PIH 2011-57 Instructions for Public Housing Agency on Fiscal Year End Changes
- PIH 2011-55Public Housing Operating Subsidy
- PIH 2011-54Guidance on the Project-Based Voucher Program

BHHC has implemented program changes to address the identified deficiencies and strategies listed in the current Sustainability Plan as a part of an ongoing recovery effort to maintain it's Standard Performer Designation under the PHAS Management Assessment Subsystem and Housing choice voucher SEMAP.

6.0 Continued

(b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.

The Agency Plan for the Benton Harbor Housing Commission can be viewed by contacting the

- Main administrative office located at 721 Nate Wells Sr. Drive Benton Harbor, MI,

Satellite locations Asset Management Project(s)

- AMP# 1- 250 East Wall Street; Harbor Towers / Scatter Site 10-5
- AMP# 2- 925 Buss Ave., BUSS Development / Scattered Sites 10-7 & 10-9

Interested parties may also view the plan on the agency website @ bhhcommission.org.

Documents available for public inspection include:

- PHA 5-Year and Annual Plan;
- Eligibility, Selection and Admissions Policies, including De-concentration and Waiting List Procedures; Revised ACOP- Admission and Continued Occupancy Policy for the (LRPH) Low Rent Public Housing, Tenant Selection, The Administrative Plan for the HCVP Housing Choice Voucher Program (Section 8), Certification of compliance with de-concentration requirements
- Financial Resources; Most recent board approved operating budget for the public housing program,
- Rent Determination; Public housing rent determination policies, the methodology for setting BHHC flat rents and HCVP payment standards
- Operation and Management; Public Hosing management and maintenance policies
- Grievance Procedures; Public Housing Grievance Procedures and HCVP Informal Review and Hearing Procedures
- Designated Housing for Elderly and Disabled Families;
- Community Service and Self-Sufficiency;
- Pet Policy;
- Fiscal Year Audit; the results of the most recent fiscal year audit. and the response to any findings
- Asset Management;
- Safety and Crime Prevention;
- Civil Rights Certification;
- VAWA – Violence Against Women Act Policy
- MOA/Recovery Plan

PHA Plan Update 2012

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:
BHHC has revised the following Plan elements since its last Annual Plan submission;

See Attachment #7 Narrative – Plan Elements

7.0	HHC implemented Hope VI Project Base Vouchers- the addition of Project Based vouchers with a site based waiting list and Community Supportive Services (signed MOU's between established community partners and BHHC) has been implemented. Once the Hope VI Phase IV Harbor Bluffs Development is complete Twenty-Eight (28) vouchers will be allocated to the Harbor Bluffs Development. The development is located adjacent to the Benton Harbor Housing Commission Administrative Office located at 721 Nate Wells Sr. Drive in the City of Benton Harbor, MI. The implementation of these vouchers will be consistent in helping BHHC meet our Affordable Housing Goals addressing the housing needs of the community BHHC serves. **OVERVIEW [24 CFR 983.5]** The project-based voucher (PBV) program allows PHAs 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]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of de-concentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. BHHC Policy BHHC will operate a project-based voucher program using up to 20 percent of its budget authority 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 PHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6]. **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 PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2. BHHC Policy Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, BHHC policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.
8.0	**Capital Improvements.** Please complete Parts 8.1 through 8.3, as applicable.
8.1	**Capital Fund Program Annual Statement/Performance and Evaluation Report.** As part of the PHA 5-Year and Annual Plan, annually complete and submit the *Capital Fund Program Annual Statement/Performance and Evaluation Report*, form HUD-50075.1, for each current and open CFP grant and CFFP financing. Attachment # 1- Open Grants Attachment # 2 – 2012 CFP Annual Statement and Performance Report Attachment # 9 – Five Year Action Plan
8.2	**Capital Fund Program Five-Year Action Plan.** As part of the submission of the Annual Plan, PHAs must complete and submit the *Capital Fund Program Five-Year Action Plan*, form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan. See Attachment # 2
8.3	**Capital Fund Financing Program (CFFP).** ☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.
9.0	**Housing Needs**. Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. ***Continued on next page***

	Waiting List Type: Public Housing – 2012 AMP # 1	# of families	% of total families	Annual Turnover
	Waiting list total	**113**		
	Extremely low income < =30% AMI	**115**	**85%**	
	Very low income > 30% but < = 50% AMI	**17**	**13 %**	
	Low Income > 50% but < 80% AMI	**3**	**2 %**	
	Families with children	**40**	**30%**	
9.0	Elderly families	**20**	**15 %**	
	Families with Disabilities	**97**	**72 %**	
	Race/Ethnicity	**White 2**		
	Race/Ethnicity	**Hispanic 0**		
	Race/Ethnicity	**Black 111**		
	Race/Ethnicity	**Native American 0**		
	Race/Ethnicity	**Unknown 0**		
	1BR	**15**		
	2BR	**48**		
	3BR	**44**		
	4BR	**6**		
	5BR	**0**		

	Waiting List Type: Public Housing - 2012 AMP # 2	**# of families**	% of total families	Annual Turnover
	Waiting list total	**82**		
	Extremely low income < =30% AMI	**115**	**86%**	
	Very low income > 30% but < = 50% AMI	**18**	**13 %**	
	Low Income > 50% but < 80% AMI	**1**	**0 %**	
	Families with children	**111**	**1 %**	
9.0	Elderly families	**1**	**1 %**	
	Families with Disabilities	**15**	**11 %**	
	Race/Ethnicity	**White 0**		
	Race/Ethnicity	**Hispanic 0**		
	Race/Ethnicity	**Black 133**		
	Race/Ethnicity	**Native American 0**		
	Race/Ethnicity	**Unknown 0**		
	1BR	**20**		
	2BR	**37**		
	3BR	**13**		
	4BR	**12**		
	5BR	**0**		

	Waiting List Type: Harbor Bluff - 2012	# of families	% of total families	Annual Turnover
	Waiting list total	**211**		
	Extremely low income < =30% AMI	**146**	**76 %**	
	Very low income > 30% but < = 50% AMI	**46**	**24 %**	
	Low Income > 50% but < 80% AMI	**0**	**0 %**	
	Families with children	**183**	**95 %**	
	Elderly families	**9**	**5 %**	
9.0	Families with Disabilities	**32**	**0 %**	
	Race/Ethnicity	**White 0**		
	Race/Ethnicity	**Hispanic 0**		
	Race/Ethnicity	**Black 192**		
	Race/Ethnicity	**Native American 0**		
	Race/Ethnicity	**Unknown 0**		
	1BR	**14**		
	2BR	**74**		
	3BR	**91**		
	4BR	**32**		
	5BR	**0**		

	Waiting List Type: HCVP (Section 8) -2012	# of families	% of total families	Annual Turnover
	Waiting list total	**556**		
	Extremely low income < =30% AMI	**404**	**73 %**	
	Very low income > 30% but < = 50% AMI	**148**	**27 %**	
	Low Income > 50% but < 80% AMI	**0**	**0 %**	
	Families with children	**525**	**80 %**	
9.0	Elderly families	**27**	**5 %**	
	Families with Disabilities	**81**	**15%**	
	Race/Ethnicity	**White 0**		
	Race/Ethnicity	**Hispanic 0**		
	Race/Ethnicity	**Black 552**		
	Race/Ethnicity	**Native American 0**		
	Race/Ethnicity	**Unknown 0**		
	1BR	**169**		
	2BR	**189**		
	3BR	**149**		
	4BR	**40**		
	5BR	**9**		

	Waiting List Hope VI Site Based -2012	# of families	% of total families	Annual Turnover
	Waiting list total	**393**		
	Extremely low income < =30% AMI	**255**	**66 %**	
	Very low income > 30% but < = 50% AMI	**133**	**34 %**	
	Low Income > 50% but < 80% AMI	**0**	**0 %**	
	Families with children	**320**	**75 %**	
9.0	Elderly families	**28**	**6 %**	
	Families with Disabilities	**40**	**10 %**	
	Race/Ethnicity	**White 0**		
	Race/Ethnicity	**Hispanic 0**		
	Race/Ethnicity	**Black 388**		
	Race/Ethnicity	**Native American 0**		
	Race/Ethnicity	**Unknown 0**		
	1BR	**39**		
	2BR	**126**		
	3BR	**195**		
	4BR	**32**		
	5BR	**1**		

	Waiting List Type: Project Based (HCVP) - 2012	# of families	% of total families	Annual Turnover
	Waiting list total	**76**		
	Extremely low income < =30% AMI	**84**	**77 %**	
	Very low income > 30% but < = 50% AMI	**25**	**23 %**	
	Low Income > 50% but < 80% AMI	**0**	**0 %**	
	Families with children	**103**	**95 %**	
9.0	Elderly families	**2**	**1 %**	
	Families with Disabilities	**4**	**4 %**	
	Race/Ethnicity	**White 0**		
	Race/Ethnicity	**Hispanic 0**		
	Race/Ethnicity	**Black 109**		
	Race/Ethnicity	**Native American 0**		
	Race/Ethnicity	**Unknown 0**		
	1BR	**8**		
	2BR	**46**		
	3BR	**18**		
	4BR	**4**		
	5BR	0		

9.1	**Strategy for Addressing Housing Needs**. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.** **Need: Shortage of affordable housing for all eligible populations** **Strategy –** o **Maximize the number of affordable units available to BHHC within its current resources by:** o **Employing effective maintenance and management policies to minimize the number of public housing units off-line** o **Employ effective methodology to help reduce turnover time for vacated public housing units** o **Reduce time it takes to renovate public housing units** o **Maintain or increase HCVP (Section 8) lease-up rates by establishing payment standards that will enable families to rent throughout the jurisdiction.** o **Maintain or increase HCVP (Section 8) lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration.** o **Maintain or increase HCVP (Section 8) lease-up rates by effectively screening HCVP (Section 8) applicants to increase owner acceptance of program.** o **Participate in the Consolidated Plan development process to ensure coordination with broader community strategies.** **Strategy- Increase the number of affordable housing units by:** o **Applying for additional HCVP (Section 8) units should they become available** o **Leverage affordable housing resources in the community through the creation of mixed-finance housing** o **Pursue housing resources other than public housing or HCVP (Section 8) tenant-based assistance** o **Adding project based vouchers with a site based waiting list and community supportive service initiative to help support the residents of Hope VI Phase IV Harbor Bluffs Development** o **Build more units, use Youth Build to provide more houses** **Need: Specific Family Types-Families at or below 30% of median** **Strategy- Target available assistance to families at or below 30% AMI** o **Exceed HUD Federal targeting requirements for families at or below 30% of AMI in public housing** o **Employ admissions preferences aimed at families with economical hardships** o **Adopt rent policies to support and encourage residents for job readiness and work** **Need: Specific Family Types-Families at or below 50% of median** **Strategy- Target available assistance to families at or below 50% AMI** o **Employ admissions preferences aimed at families who are working** o **Adopt rent policies to support and encourage families to work** **Need: Specific Family Types-Families The Elderly** **Strategy- Target available assistance to the elderly** o **Apply for special-purpose vouchers targeted to the elderly should they become available** o **Partnership with Faith-Based Organizations** **Need: Specific Family Types-Families with Disabilities** **Strategy- Target available assistance to families with disabilities** o **Carry out the modifications needed in public housing based on the Section 504 Needs Assessment for Public Housing** o **Apply for special-purpose vouchers targeted to families with disabilities should they become available** o **Affirmatively market to local non-profit agencies that assist families with disabilities** o **Applying for grants that enable BHHC to establish MOU for supportive services and dedicate space within its development to sustain** o **Program operations and space within the designated development** **Need: Specific Family Types-Race or ethnicities with disproportionate housing needs** **Strategy-Increase awareness of PHA resources among families of races and ethnicities with disproportionate needs** o **Affirmatively market to races/ethnicities show to have disproportionate housing needs** **Strategy-Conduct activities to affirmatively further fair housing** o **Counsel HCVP (Section 8) tenants as to locations outside of areas of poverty or minority concentration and assist them to locate those units** o **Market the HCVP (Section8) to owners outside of areas of poverty/minority concentrations** **Justification/Methodology for BHHC selected strategies** **Factors that influenced BHHC's selected strategies it will pursue** o **Funding Constraints** o **Staffing Constraints** o **Limited availability of sites for assisted housing** o **Extent to which particular housing needs are met by other organizations in the community** o **Evidence of housing needs as demonstrated in the Consolidated Plan and other information available to the PHA** o **Influence of the housing market on PHA programs** o **Community priorities regarding housing assistance** o **Results of consultation with local or state government** o **Results of consultation with residents and the Resident Advisory Board** o **Results of consultation with advocacy groups**

10.0	**Additional Information**. Describe the following, as well as any additional information HUD has requested. (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification" (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. o BHHC has been able to maintain its mission; viable in the promoting of adequate and affordable housing, economic opportunity and a suitable living environment from discrimination through the utilization of established and newly implemented Public Housing and HCVP (section 8) policies and procedures. o We are continuing to address public housing vacancies very aggressively and our PHAS scores indicate that our operational and management issues are being positively impacted o Capital Funds are being utilized to provide modernization of BHHC housing stock, to provide decent, safe, in good repair affordable housing to the residents living in the community under the jurisdiction in which BHHC serves. BHHC will meet all of its established goals CFP FY 2011-2015 o BHHC has implemented local preferences to increase the number working families admitted to the program; to improve the community living environment in addition to our modernization efforts o BHHC continues to enforce its policies and procedures especially its Community Service Requirements, Pet Policy, De-concentration Policy, VAWA, Management Operations, Maintenance Operation, o BHHC has completed building it's affordable replacement housing through the Hope VI Program, BHHC has implemented Phase IV Harbor Bluffs HCVP (section 8) Project Base Vouchers in addition to Community Supportive Service Partnerships o BHHC will continue to meet and accommodate all of our goals and objectives as stated in the MOA (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification" Significant amendment: The Public Housing Authority's (PHA) Definition of Substantial Deviation and Significant Amendment or Modification are as follows: • Changes to rent or admissions policies or organization of the waiting list; • Additions of non-emergency work items(items not intended in the current 5-Year Action Plan) or change in use of replacement reserve funds under the Capital Funds; and • Any change with regards to demolition or disposition, designation, homeownership programs or conversion activities.

11.0	**Required Submission for HUD Field Office Review**. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only)

2012
Attachment # 7 BHHC Five Year and Annual Plan Elements 6.0

BHHC 5-Year and Annual Plan / PHA Plan Elements 24CFR 903.7

1. **Eligibility, Selection and Admissions Policies, including De-concentration and Waiting List Procedures; Revised ACOP- Admission and Continued Occupancy Policy for the (LRPH) Low Rent Public Housing, Tenant Selection, The Administrative Plan for the HCVP Housing Choice Voucher Program (Section 8), Certification of compliance with de-concentration requirements**

Please see the attached BHHC ACOP and BHHC Administrative Plan Specific Chapters

BHHC ACOP Chapter 4 - Admission and Continued Occupancy Policy /Chapter 4 - Administrative Plan HCV Program

2. **Financial Resources; Most recent board approved operating budget for the public housing program,**
   Please see Attached Budget / BHHC FY 2013

3. **Rent Determination; Public Housing Rent Determination Policies, the methodology for setting BHHC flat rents and HCVP Payment Standards**

Please see the attached BHHC ACOP and BHHC Administrative Plan Specific Chapters

BHHC ACOP Chapter 6 - Admission and Continued Occupancy Policy / Chapter 6 - Administrative Plan HCV Program
INCOME AND RENT DETERMINATIONS
[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

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4. **Operation and Management; Public Hosing Management and Maintenance Policies**
   BHHC Standard Operating Procedures /Policy and Procedures Manual

The goals and objectives of the BHHC Maintenance Department are to maintain each and every development in a condition equal to or greater than UPCS requirements, to meet and exceed all maintenance related indicators, and to properly utilize the existing staff with a reasonable amount of overtime, within budget and on schedule.
The Benton Harbor Housing Commission's strategy for meeting the day-to-day maintenance needs of the properties is to assign specific skilled-set maintenance staff to each development. The assignment of maintenance staff to specific locations will be at the discretion of the Executive Director, or his/her designee. The maintenance staff will answer directly to the Asset Property Site Manager.
BHHC has developed a Preventative Maintenance schedule for each development that includes a cyclical schedule for the prevention and/or the eradication of pest infestation, including cockroaches and bedbugs.

5. **Grievance Procedures; Public Housing Grievance Procedures and HCVP Informal Review and Hearing Procedures**

Please see the attached BHHC ACOP and BHHC Administrative Plan Specific Chapters

BHHC ACOP Chapter 14 -Admission and Continued Occupancy Policy / Chapter 16 -Administrative Plan HCV Program
GRIEVANCES AND APPEALS

6. Designated Housing for Elderly and Disabled Families;

Please see the attached BHHC ACOP and BHHC Administrative Plan Specific Chapters

BHHC ACOP Chapter 2- Admission and Continued Occupancy Policy –
BHHC Administrative Plan Chapter 2 PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

7. Community Service and Self-Sufficiency;

BHHC ACOP Chapter 2- Admission and Continued Occupancy Policy

PART I: COMMUNITY SERVICE REQUIREMENT – Agency Statement

The Benton Harbor Housing Commission's policy is designed to identify which adult family members are subject to or exempt from the service requirements; to explain how the PHA will administer its program; to identify PHA and/or third party certification opportunities available to eligible adult family members; and to assure resident compliance with identified work activities with fair and equable actions.

PHA Responsibilities

(1.) Eligibility Determination

The PHA will review every existing resident file to determine each Adult member's status regarding community service per the following guidelines.

a. As family status is determined a registered letter or other certifiable document of receipt will be sent to each adult member of that family to notify them of their status (exempt or non-exempt) and explaining the steps they should immediately proceed with through their housing representative.

b. The PHA will include a copy of the general information section of its Community Service Policy and a listing of PHA and/or third party work activities that are eligible for certification of the community service requirement.

c. At the scheduled meeting with each non-exempt adult family member, not only will the parameters of the community service requirement be reviewed but also the PHA and/or third party work activities will be identified and selected for compliance with the annual obligation for certification at their annual lease renewal date.

(2.) Work Activity Opportunities

The Benton Harbor Housing Commission has elected to provide to those adult family members that must perform community service activities the opportunity to select either PHA sanctioned work activities or Third Party certifiable work items. The administration of the certification process would be:

a. PHA Provided Activities.

When qualifying activities are provided by the Commission directly, designated Commission employee(s) shall provide signed certification that the family member has performed the proper number of hours for the selected service activities.

b. Third Party Certification

When qualifying activities are administered by any organization other than PHA, the family member must provide signed certification (see III A (c)) to the Commission by such third party organization that said family member has performed appropriate service activities for the required hours.

c. Verification of Compliance.

The Commission is required to review family compliance with service requirement, and must verify such compliance annually at least thirty (30) days before the end of the twelve (12) month lease term (annual re-certification time). Evidence of service performance and/or exemption must be maintained in the participant files.

d. Notice of Noncompliance.

If the Commission determines that, a family member who is subject to fulfilling a service requirement, but who has violated the family's obligation (a noncompliant resident) the Commission must notify the specific family member of this determination.

The Notice of Noncompliance must:

1. Briefly, describe the noncompliance (inadequate number of hours).
2. State that the Commission will not renew the lease at the end of the twelve (12) month lease term unless:

   The resident or any other noncompliant adult family member enters into a written agreement with the Commission to cure the noncompliance and in fact perform to the letter of agreement.

   - Or -

   The family provides written assurance satisfactory, to the PHA that the resident or other noncompliant adult family member no longer resides in the unit.

   This Notice of Noncompliance must also state that the resident may request a grievance hearing and that the resident may exercise any available judicial remedy to seek timely redress for the Commission's non-renewal of the lease because of a noncompliance determination.

e. Resident agreement to comply with the service requirement.

The written agreement entered into with the Commission to cure the service requirement noncompliance by the resident and any other adult family member must:

1. Agree to complete additional service hours needed to make up the total number of hours required over the twelve (12) month term of the new lease.
2. State that all other members of the family subject to the service requirement are in current compliance with the service requirement or are no longer residing in the unit.

f. The Benton Harbor Housing Commission has developed a list of Agency certifiable and/or third party work activities of which each non-exempt adult family member can select to perform their individual service requirement.

8. Safety and Crime Prevention;

BHHC Standard Operating Procedures /Policy and Procedures Manual

Need for measures to ensure the safety of public housing residents
Due to a High incidence of violent and/or drug-related crime in the areas surrounding or adjacent to BHHC's developments, the following statements apply;

Residents are fearful for their safety and/or the safety of their children
Observed lower-level crime, vandalism and/or graffiti
People on waiting list unwilling to move into one or more developments due to perceived and/or actual levels of violent and/or drug related crime

BHHC used the following information and/or data to determine the need for agency actions to improve safety of residents

- Safety and security survey of residents
- Analysis of crime statistics over time for crimes committed “in and around” public housing authority
- Analysis of cost trends over time for repair of vandalism and removal of graffiti
- Resident reports
- PHA employee reports
- Police reports
- Demonstrable, quantifiable success with previous or ongoing anticrime/anti drug programs

All PHA Developments are affected
BUSS Development MI 10-2
Harbor Towers MI 10-3
Scattered Sites MI 10-5, MI 10-7, MI 10-9

B. Crime and Drug Prevention activities the PHA has undertaken or plans to undertake in the next PHA fiscal year

These are some of the crime prevention activities that BHHC has undertaken or plans to undertake:

- Contracting with outside and/or resident organizations for the provision of crime- and/or drug-prevention activities
- Crime Prevention through Environmental Design
- Activities targeted to at-risk youth, adults, or seniors
- Volunteer Resident Patrol/Block Watchers Program - Citywide
- Security for all Properties

Continued efforts are made towards collaboration and consensus as the coordination between BHHC and the local police precincts for carrying out crime prevention measures and activities:

- Police involvement in development, implementation, and/or ongoing evaluation of drug-elimination plan
- Police provide crime data to housing authority staff for analysis and action
- Police have established a physical presence on housing authority property (e.g., community policing office, officer in residence)
- Police regularly testify in and otherwise support eviction cases
- Police regularly meet with the PHA management and residents
- Agreement between PHA and local law enforcement agency for provision of above-baseline law enforcement services

9. Pet Policy;

BHHC Dwelling Lease and Lease Addendum
PET POLICY FOR FAMILY DEVELOPMENTS

In compliance with Section 526 of The Quality Housing and Work Responsibility Act of 1998, PHA residents shall be permitted to own and keep common household pets. Animals that are an auxiliary for persons with a disability are excluded from this policy. The ownership of common household pets is subject to rules and limitations:

1. Common household pets shall be defined as "domesticated animals such as a dog, cat, bird, rodent, fish or turtle".
2. No more than one (1) dog or cat shall be permitted in a household. In the case of birds, a maximum of two birds may be permitted. There shall be no limit as to the number of fish, but no more than one aquarium with a maximum capacity of twenty (20) gallons shall be permitted. A Resident with a dog or cat may also have other categories of "common household pets" as defined above.
3. Pets other than a dog or cat shall be confined to an appropriate cage or container. Such a pet may be removed from its cage while inside the owner's apartment for the purpose of handling, but shall not generally be unrestrained.
4. Only one (1) dog or cat is allowed per household. NO PIT BULLS WILL BE PERMITTED. All dogs and cats will need to be on a leash, tied up, or otherwise restrained at all times when they are outside. Neither dogs nor cats shall be permitted to run loose.
5. Pet owners shall maintain their pet in such a manner as to prevent any damage to their unit, yard or common areas of the community in which they live. The animal shall be maintained so as not to be a nuisance or a threat to the health or safety of neighbors, PHA employees, or the public, by reason of noise, unpleasant odors or other objectionable situations.
6. Each pet owner shall be fully responsible for the care of the pet, including the proper disposal of pet wastes in a safe and sanitary manner. Animal wastes must be collected by the pet owner and put into a plastic bag that is then tied shut and disposed of by placing the bag into a waste disposal container. Improper disposal of pet waste is a lease violation and may be grounds for termination.
7. All pets shall be inoculated and licensed in accordance with applicable state and local laws. All cats or dogs shall be neutered or spayed, unless a veterinarian certifies that the spaying or neutering would be inappropriate or unnecessary (because of health, age, etc.).
8. All pets shall be registered with the Management Office immediately.
9. Any litigation resulting from actions by pets shall be the sole responsibility of the pet owner. The pet owner agrees to indemnify and hold harmless the PHA from all claims, causes of action damages or expenses, including attorney's fees, resulting from the action or the activities of his or her pet.

POLICY FOR ANIMALS THAT ASSIST PERSONS WITH DISABILITIES

Pet rules will not be applied to animals that assist persons with disabilities. To be excluded from the pet policy, the resident/pet owner must certify:

That there is a person with disabilities in the household;

That animal has been trained to assist with specified disability.

10. Civil Rights Certification;

Civil rights certifications are included in the PHA Plan Certifications of Compliance with the PHA Plans and Related Regulations.

11. Fiscal Year Audit; the results of the most recent fiscal year audit. and the response to any findings

[24 CFR Part 903.7 9 (p)]

BHHC is required to have an audit conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U S.C. 1437c(h));

- The most recent fiscal audit submitted to HUD
- There were no finding as the result of that audit

A copy of the most recent audit, There were no audit finding, a copy can be obtained from the main administrative office;
Benton Harbor Housing Commission - 721 Nate Wells Drive – Benton Harbor, MI 49022

12. Asset Management;

BHHC ACOP Chapter 1- Admission and Continued Occupancy Policy

II A (a) ASSET MANAGEMENT

BHHC is engaging activities that will contribute to the long-term asset management of its public housing stock, including how the Agency will plan for long-term operating, capital investment, rehabilitation, modernization, disposition, and other PHA needs. BHHC will undertake the following types of asset management activities; Development-based accounting and Comprehensive stock assessment.

BHHC has included descriptions of asset management activities in the **optional** Public Housing Asset Management Table.

Public Housing Asset Management								
Development Identification		**Activity Description**						
Name, Number, and Location	Number and Type of units	Capital Fund Program Parts II and III *Component 7a*	Development Activities *Component 7b*	Demolition / disposition *Component 8*	Designated housing Component 9	Conversion *Component 10*	Home-ownership *Component 11a*	Other (describe) *Component 17*
MI 010-010	94	Demolish, rebuild new units and donate small plot to Habitat for Humanity	16,000,000.00	4,000,000.00				
MI 10-2	78	Demolish and rebuild new units	14,000,000.00	0				
MI 10-3	95	Remodel, new windows, HVAC, new elevators	7,000,000.00	0				
MI 10-5	46	Rehab interior	690,000.00	0				
MI 10-7	40	Rehab interior	650,000.00	0				
MI 10-9	17	Install new cabinets and new flooring product	60,000.00	0				

13. Sustainability Plan

BHHC is currently under a Sustainability Plan in order to correct the identified deficiencies under the (PHAS) Public Housing Management Assessment System.

14. VAWA – Violence Against Women Act Policy

BHHC ACOP Chapter 16- Admission and Continued Occupancy Policy

BHHC Administrative Plan – Chapter 16 Part IX

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

Violence Against Women Act Policy

The purpose of this Policy is to reduce domestic violence, dating violence, and stalking and to prevent homelessness by:

protecting the safety of victims;
creating long-term housing solutions for victims;
building collaborations among victim service providers; and
assisting BHHC to respond appropriately to the violence while maintaining a safe environment for BHHC, employees, tenants, applicants, Section 8 participants, program participants and others.

The Policy will assist the Benton Harbor Housing Commission (BHHC) in providing rights under the Violence Against Women Act to its applicants, public housing residents, Section 8 participants and other program participants.

2.0 <u>Mission Statement</u>

BHHC's policy is to comply with the Final Guidance Federal Register – October 27, 2010 (Update)
BHHC's policy is to comply with the 2005 VAWA Pub. L. 109-162;
Stat.2960 signed into law on January 5, 2006 and codified at 42 U.S.C. § 1437d (1) and 1437f (d), (o) & I and (u). BHHC shall not discriminate against an applicant, public housing resident, Section 8 program participant or other program participant on the basis of the rights or privileges provided under the VAWA.

This Policy is incorporated into BHHC's "Statement Of Policies Governing Admission to Continuing Occupancy of Low Rent Housing" and "Section 8 Program Administrative Plan" and applies to all BHHC housing programs including the Family Self Sufficiency Program and Housing Counseling Programs.

3.0 Definitions

The definitions in this Section apply only to this Policy.

3.1 Confidentiality: Means that BHHC will not enter information provided to BHHC under 4.2 and 4.3 into a shared database or provide this information to any related entity except as stated in 4.4.

3.2 **Dating Violence:** Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship. 42 U.S.C. § 1437d (u) (3) (A).

3.3 Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, committed by a person with whom the victim shares a child in common, committed by a person who is cohabitating with or has cohabitated with the victim as a spouse, committed by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Minnesota, or committed 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 Michigan.

3.4 Homeless, Homeless Individual, and Homeless Person: A person who lacks a fixed, regular and adequate nighttime residence. Also includes: a) a person who is sharing the housing of other persons due to loss of housing, economic hardship or a similar reason; b) a person living in a motel, hotel, trailer park, or campground due to lack of alternative adequate accommodations; c) a person living in emergency or transitional shelter; d) a person abandoned in a hospital; e) a person awaiting foster care placement; or f) a person who has a primary nighttime resident that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings. VAWA of 2005 § 41403.

3.5 Involuntary Displacement: Occurs when a victim has vacated or will have to vacate their housing unit because of domestic violence, dating domestic violence or stalking against the victim.

3.6 Immediate Family Member: A spouse, parent, brother or sister, or child of a victim or an individual to whom the victim stands in loco parentis or any other person living in the household of the victim and related to the victim by blood and marriage. 42 U.S.C. § 1437d (u) (3) (D)

3.7 Long-term Housing: Is housing that is sustainable, accessible, affordable and safe for the foreseeable future which: a) the person rents or owns; b) is subsidized by a voucher or other program as long as the person meets the eligibility requirements of the program; c) directly provided by BHHC, is not time limited and the person meets the eligibility requirements of the program.

3.8 Perpetrator: A person who commits an act of domestic violence, dating domestic violence or stalking against a victim.

3.9 Stalking: (a) to follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate the victim; (b) to place under surveillance with the intent to kill, injure, harass or intimidate the victim; (c) in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place the victim in reasonable fear of the death of, or serious bodily injury to the victim; or (d) to cause substantial emotional harm to the victim, a member of the immediate family of the victim or the spouse or intimate partner of the victim.42 U.S.C. § 1437d (u)(3)(C).

3.10 Victim: Is a person who is the victim of domestic violence, dating violence, or stalking under this Policy and who has timely and completely completed the certification under 4.2 and 4.3 or as requested by BHHC.

4.0 Certification and Confidentiality

4.1 Failure to Provide Certification Under 4.2 and 4.3

The person shall provide complete and accurate certifications to MPHA, owner or manager within 14 business days after the party requests in writing that the person completes the certifications. If the person does not provide a complete and accurate certification within the 14 business days, BHHC, the owner or manager may take action to deny or terminate participation or tenancy under: 42 U. S. C. § 1437 1 (5) & (6); 42 U. S. C. § 1437 (d) (c) (3); 42 U. S. C. § 1437f (c)(9); 42 U. S. C. § 1437f (d)(1)(13)(ii) & (iii); 42 U. S. C. § 1437f (o)(7)(C) &(D); or 42 U. S. C. § 1437f (o)(20) or for other good cause.

4.2 HUD Approved Certification

For each incident that a person is claiming is abuse, the person shall certify to MPHA, owner or manager their victim status by completing a HUD approved certification form. The person shall certify the date, time and description of the incidents, that the incidents are bona fide incidents of actual or threatened abuses and meet the requirements of VAWA and this Policy. The person shall provide information to identify the perpetrator including but not limited to the name and, if known, all alias names, date of birth, address, contact information such as postal, e-mail or internet address, telephone or facsimile number or other information.

4.3 Other Certification

A person who is claiming victim status shall provide to BHHC, an owner or manager: a) documentation signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. § 1746) to the professional's belief that the incident(s) in question are bona fide incidents of abuse; or b) a federal, state, tribal, territorial, local police or court record.

4.4 Confidentiality

BHHC, the owner and manager shall keep all information provided to MPHA under this Section confidential. BHHC, owner and manager shall not enter the information into a shared database or provide to any related entity except to the extent that:

(a) the victim requests or consents to the disclosure in writing;

(b) the disclosure is required for:

(i) eviction from public housing under 42 U. S. C. § 1437 1 (5) & (6) (See Section 5 in this Policy);

(ii) termination of Section 8 assistance under 42 U. S. C. § 1437f (c)(9); 42 U. S. C. § 1437f (d)(1)(B)(ii) & (iii); 42 U. S. C. § 1437f (o)(7)(C) &(D); or 42 U. S. C. § 1437f (o)(20) (See Section 5 in this Policy); or

(c) the disclosure is required by applicable law.

4.5 Compliance Not Sufficient to Constitute Evidence of Unreasonable Act

The BHHC, owner or manager compliance with Sections 4.1, 4.2 and 4.3 shall alone not be sufficient to show evidence of an unreasonable act or omission by them.

5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy.

5.1 BHHC shall not deny participation or admission to a program on the basis of a person's victim status, if the person otherwise qualifies for admission of assistance.

5.2 An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be a serious or repeated violation of the lease by victim and shall not be good cause for denying to a victim admission to a program, terminating Section 8 assistance or occupancy rights, or evicting a tenant.

5.3 Criminal activity directly related 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 cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim of that domestic violence, dating violence or stalking.

5.4 Notwithstanding Sections 5.1, 5.2 and 5.3 BHHC, an owner or manager may bifurcate a lease to evict, remove or 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 the violence who is also a tenant or lawful occupant. 42 U.S.C. §1437d(1)(6)(B).

5.5 Nothing in Sections 5.1, 5.2 and 5.3 shall limit the authority of BHHC, an owner or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members when the family breaks up.

5.6 Nothing in Sections 5.1, 5.2 and 5.3 limits BHHC, an owner or manager's authority to evict or terminate assistance to any tenant for any violation of lease not premised on the act or acts of violence against the tenant or a member of the tenant's household. However BHHC, owner or manager may not hold a victim to a more demanding standard.

5.7 Nothing in Sections 5.1, 5.2 and 5.3 limits BHHC, an owner or manager's authority to evict or terminate assistance, or deny admission to a program if the BHHC, owner or manager can show an actual and imminent threat to other tenants, neighbors, guests, their employees, persons providing service to the property or others if the tenant family is not evicted or terminated from assistance or denied admission.

5.8 Nothing in Sections 5.1, 5.2 or 5.3 limits BHHC, an owner or manager's authority to deny admission, terminate assistance or evict a person who engages in criminal acts including but not limited to acts of physical violence or stalking against family members or others.

5.9 A Section 8 recipient who moves out of a assisted dwelling unit to protect their health or safety and who: a) is a victim under this Policy; b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and c) has complied with all other obligations of the Section 8 program may receive a voucher and move to another Section 8 jurisdiction.

5.10 A public housing tenant who wants a transfer to protect their health or safety and who: a) is victim under this Policy; b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and 3) has complied with all other obligations of the public housing income program may transfer to another BHHC unit, receive a Section 8 voucher and stay in Benton Harbor or move to another Section 8 jurisdiction.

6.0 Actions Against a Perpetrator

BHHC may evict, terminate assistance, deny admission to a program or trespass a perpetrator from its property under this Policy. The victim shall take action to control or prevent the domestic violence, dating violence, or stalking. The action may include but is not limited to: a) obtaining and enforcing a restraining or no contact order or order for protection against the perpetrator; b) obtaining and enforcing a trespass against the perpetrator; c) enforcing BHHC or law enforcement's trespass of the perpetrator; d) preventing the delivery of the perpetrator's mail to the victim's unit; e) providing identifying information listed in 4.2; and 0 other reasonable measures.

7.0 Notice to Applicants, Participants, Tenants and Section 8 Managers and Owners.

BHHC shall provide notice to applicants, participants, tenants, managers and owners of their rights and obligations under Section 4.4 Confidentiality and Section 5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy.

8.0 Preferences

Families who are victims under VAWA will receive a preference in BHHC's public housing and housing assistance programs. Families who have been victims of domestic violence, dating violence or stalking shall provide: a) documentation signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. § 1746) to the professional's belief that the incident(s) in question are bona fide incidents of abuse; or b) a federal, state, tribal, territorial or local police or court record to establish their victim status under this policy.

9.0 Reporting Requirements

BHHC shall include in its 5 year plan a statement of goals, objectives, policies or programs that will serve the needs of victims. BHHC shall also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to victims, to help victims obtain or maintain housing or to prevent the abuse or to enhance the safety of victims.

10.0 Conflict and Scope: This Policy does not enlarge BHHC's duty under any law' - regulation or ordinance. If this Policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this Policy conflicts with another BHHC policy such as its Statement of Policies or Section 8 Administration Plan, this Policy will control.

Amendment: The Executive or Deputy Director may amend this policy when it is reasonably necessary to effectuate the Policy's intent, purpose or interpretation. The proposed amendment along with the rationale for the amendment shall be submitted to the Executive Director for consideration. Where reasonably necessary, the Executive Director may approve the amendment. The amendment shall be effective and incorporated on the date that the Executive Director signs the amendment.

Available Services for victims of VAWA
SERVICE PARTNERS

15. **MOU -** BHHC currently has MOU's Memorandum of Understandings with the following Service Partners

Name

Benton Harbor Street Ministries
Contact: Rev. Yvonne Hester President
Berrien County Health Department
Contact: John Nelson,
Health Officer/Director of Programs
Nurse-Family Partnership Program
Health Promotion Education Services
Bridges to Digital Excellence
Contact: Doug Chapman
CARES
Contact: Willie Mitchell, Prevention Specialist
Citizens for Progressive Change
Contact: Dr. Marcus Robinson, President
Character Education through Band of Brethren In Christ up to 100 slots
Cornerstone Alliance Small Business Services
Contact: Margaret Adams
One-on-one Business Counseling, CORE FOUR Business Planning
E-Business for Small Business, QuickBooks
Curious Kids Museum
Contact: Pat Adams
Cool Kids Summer Program
Berrien County Family Independence Agency
Contact: Jerry S. Frank, Director
Child Care, Vehicle Repairs, Vehicle Purchase, Special Clothing, Transportation
"I'm Saving Myself"
Contact: Bonita Mitchell, President
Prevention Program using Music and the performing arts, Low Self-esteem
Drug and Alcohol, Suicide, Violence
KMG Keystone Property Management
Connie Mathes, Regional Property Manager
Training/Possible Employment
Second Baptist Church
Contact: Rev. Kenneth M. Gavin, Pastor
Food Bank , Utility Service Assistance, Rental Assistance, Drama Classes
Educational Assistance
YMCA
Contact: Jerry Price, Community Development Director
Donation of Profession Exercise Equipment , After School Tutoring
Computer Literacy Training, "Girls on the Run", Health and Fitness programs
Supervised Sports Activities
Monitor sports equipment donated by HOPE VI thru a checkout process

Community Supportive Service Partnerships

Name	Service (Past, Current and Sustainability)	Length of Time	MOU
Benton Harbor Street Ministries Contact: Rev. Yvonne Hester President	GED Tutoring, GED Classes	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
Berrien County Health Department Contact: John Nelson, Health Officer/Director of Programs	Nurse-Family Partnership Program Health Promotion Education Services Vaccinations, Reproductive Health Clinic Services, Substance Abuse Counseling	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
Bridges to Digital Excellence Contact: Doug Chapman	Computer Training Free Computers to 20 eligible families 8 hours of Course Training per family	04/01/09-09/25/09 09/28/09-09/30/14	
CARES Contact: Willie Mitchell, Prevention Specialist	Education, Counseling, Testing for employees and clients	04/01/09-09/25/09 09/28/09-09/30/14	
Citizens for Progressive Change Contact: Dr. Marcus Robinson, President	After school programs – elementary grades (2-5) and middle grades (6-8) up to 75 slots Character Education through Band of Brethren In Christ up to 100 slots	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
Cornerstone Alliance Small Business Services Contact: Margaret Adams	One-on-one Business Counseling, CORE FOUR Business Planning E-Business for Small Business, QuickBooks (basic and advanced	04/01/09-09/25/09 09/28/09-09/30/14	
Curious Kids Museum Contact: Pat Adams	Regular Cultural, Science, Arts Program, Transportation, Admission Cool Kids Summer Program	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/20/09 TBS 04/29/09
Berrien County Family Independence Agency Contact: Jerry S. Frank, Director	Child Care, Vehicle Repairs, Vehicle Purchase, Special Clothing, Transportation	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
"I'm Saving Myself" Contact: Bonita Mitchell, President	Prevention Program using Music and the performing arts, Low Self-esteem Drug and Alcohol, Suicide, Violence	04/01/09-09/25/09 09/28/09-09/30/14	
KMG Keystone Property Management Connie Mathes, Regional Property Manager	Training/Possible Employment	04/01/09-09/25/09 09/28/09-09/30/14	
Second Baptist Church Contact: Rev. Kenneth M. Gavin, Pastor	Food Bank , Utility Service Assistance, Rental Assistance, Drama Classes Educational Assistance	04/01/09-09/25/09 09/28/09-09/30/14	
YMCA Contact: Jerry Price, Community Development Director	Donation of Profession Exercise Equipment , After School Tutoring Computer Literacy Training, "Girls on the Run", Health and Fitness programs Supervised Sports Activities Monitor sports equipment donated by HOPE VI thru a checkout process	04/01/09-09/25/09 09/28/09-09/30/14	

16. Project Based Vouchers

Please see attached BHHC Administrative Plan Chapter 17

BHHC Administrative Plan – Chapter 17 Part X

PART X: COMMUNITY SUPPORTIVE SERVICES

OVERALL OBJECTIVE AND PROGRAM APPROACH

Community Supportive Services (CSS) is designed to promote the development of its residents by combining local community supportive programs to target the population with community in which it serves.

The Benton Harbor Housing Commission has tailored its CSS Program to provide a comprehensive approach to assessment and/or employment services. CSS program benchmarks will allow very low-income and transitional housing families the opportunity to develop their capabilities to become self-sufficient members of our community.

Through a special allocation of the Hope VI CSS Endowment Budget provided by the U.S. Department of Housing and Urban Development, the Housing Commission will coordinate and implement the CSS Program.

In implementing the CSS Program, the Housing Commission will work with area community service partners to establish training programs, pro-active heath care initiatives, adult educational opportunities, child care, entrepreneur opportunities, children/student service programs and a resource bank for food, rental assistance and utility service assistance.

BHHC has established an Action Plan identifying goals and objectives to promote programs that expand the opportunity for participants to become self-sufficient members of our community.

A integral component of the CSS Program is to identify the needs of program participants. Through needs assessment, determination for needed services such as childcare services, adult education, additional resource assistance, counseling, on-the-job training, and job placement will be ascertained. Support services that have been identified in the individual participant's through the needs assessment will be referred to the prospective community partner with a request for assistance.

Utilizing the partnership's extensive knowledge and established benchmarks, the Housing Commission is confident that it is providing a great opportunity and service to promote self-sufficient opportunities.

Part I: Summary						
PHA Name/Number Benton Harbor MI010		Locality (City/County & State) **Benton Harbor/Berrien/Michigan**		**Original 5-Year Plan**		**Revision No:01**
A.	Development Number and Name	Work Statement for Year FFY **2013**	Work Statement for Year 2	Work Statement for Year 3 FFY 2014	Work Statement for Year 4 FFY 2015	Work Statement for Year 5 FFY 2016
B.	Physical Improvements Subtotal	See 2012 Annual Statement	**341,791.00**	**264,172.00**	**221,525.00**	**221,525.00**
C.	Management Improvements					
D.	PHA-Wide Non-dwelling Structures and Equipment		**85,342.00**	**96,435.00**	**100,435.00**	**100435.00**
E.	Administration		**56,093.00**	**45,000.00**	**41,000.00**	**41,000.00**
F.	Other		**45,047.00**	**50,00.00**	**50,000.00**	**50,000.00**
G.	Operations					
H.	Demolition					
I.	Development					
J.	Capital Fund Financing – Debt Service					
K.	Total CFP Funds		**528,273.00**	**455,607.00**	**412,960.00**	**412,960.00**
L.	Total Non-CFP Funds					
M.	Grand Total		**528,273.00**	**455,607.00**	**412,960.00**	**412,960.00**

Part I: Summary (Continuation)

PHA Name/Number | Locality (City/county & State) | **Original 5-Year Plan** | **Revision No:**

	Development Number and Name	Work Statement for Year 1 FFY _____	Work Statement for Year 2 FFY	Work Statement for Year 3 FFY	Work Statement for Year 4 FFY	Work Statement for Year 5 FFY
		Annual Statement				

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY 2012	Work Statement for Year 2013			Work Statement for Year 2014		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
See	**MI 10-2**	**6 Bldg.**	**144,898.00**	**MI 10-2**		
Annual	**Exterior Upgrade**			**Replace Appliances**	**78 Units**	**50,000.00**
Statement				**Re-Key Units**		**10,000.00**
	MI 10-3					
	Electrical Lighting / Hallways	**8 Floors**	**138,893.00**	**MI 10-3**		
				Landscape		**10,000.00**
	MI 10-7			**Replace Toilets and Tubs**	**48 Units**	**96,467.00**
	Floor Replacement	**40 Units**	**58,000.00**	**Kitchen Upgrade**		**80,000.00**
	HA Wide			**MI 10-7,9,5**		
	Replace Maintenance Equipment		**12,000.00**	**HAVAC Upgrade**	**50 Units**	**65,000.00**
	Appliance Replacement		**73,342.00**	**Replace Appliances**	**50 Units**	**50,000.00**
	Subtotal of Estimated Cost		**$427,133.00**	Subtotal of Estimated Cost		**$361,467.00**

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY **2012**	Work Statement for Year **2015** FFY			Work Statement for Year: **2016** FFY		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
See	**MI10-3**			**MI10-3**		
Annual	**GEO-Thermal Heating**		**107,353.00**	**GEO-Thermal Heating**		**254,960.00**
Statement	**Replace Toilets and Tubs**	**48 Units**	**96,467.00**	**Replace Flooring**		**98,000.00**
				Landscape		**10,000.00**
	MI 10-7,9,5					
	HAVAC Upgrade	**50 Units**	**65,000.00**	**MI 10-3**		
	Replace Appliances	**50 Units**	**50,000.00**	**Security Upgrade**		**50,000.00**
Subtotal of Estimated Cost			**$412,960.00**	Subtotal of Estimated Cost		**$412,960.00**

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY **2012**	Work Statement for Year **2013** FFY Development Number/Name General Description of Major Work Categories	Estimated Cost	Work Statement for Year: FFY **2014** Development Number/Name General Description of Major Work Categories	Estimated Cost
See	**HA Wide Operations**	**52,000.00**	**HA Wide Operations**	**45,000.00**
Annual	**HA Wide Management Improvements**		**HA Wide Management Improvements**	
Statement	**A. Resident Programs**	**7,500.00**	**A. Resident Programs**	**7,500.00**
	B. Commissioner Training	**3,000.00**	**B..Commissioner Training**	**3,000.00**
	C...Staff Training	**12,500.00**	**C..Staff Training**	**12,500.00**
	D. **CFP Coordinator**	**26,140.00**	**D. CFP Coordinator**	**26,140.00**
	Subtotal of Estimated Cost	**$101,140.00**	Subtotal of Estimated Cost	**$94,140.00**

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY 2012	Work Statement for Year **2015** FFY		Work Statement for Year: **2016** FFY	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
See	**HA Wide Operations**	**45,000.00**	**HA Wide Operations**	**45,000.00**
Annual	**HA Wide Management Improvements**		**HA Wide Management Improvements**	
Statement	**A. Resident Programs**	**7,500.00**	**A. Resident Programs**	**7,500.00**
	B. Commissioner Training	**3,000.00**	**B. PNA- Physical Needs Assessment**	**15,500.00**
	C. Staff Training	**12,500.00**	**C. CFP Coordinator**	**26,140.00**
	D. **CFP Coordinator**	**26,140.00**		
	Subtotal of Estimated Cost	**$94,140.00**	Subtotal of Estimated Cost	**$94,140.00**

U.S. Department of Housing and Urban Development

Detroit Field Office
Office of Public Housing
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 1710
Detroit, MI 48226-2592
Tel. (313) 226-7900 FAX (313) 226-6160

FEB 03 2012

Board of Commissioners
c/o Ralph Crenshaw, President
Benton Harbor Housing Commission
721 Nate Wells Drive
Benton Harbor, MI 40922

Dear Mr. Crenshaw:

SUBJECT: Executed Recovery Agreement & Action Plan

Enclosed is the Recovery Agreement executed between the Benton Harbor Housing Commission and HUD and the Action Plan for achieving recovery. The Recovery Agreement and Action Plan are being sent to the Housing Commission because the agency was designated troubled by HUD's Real Estate Assessment Center (REAC) for the fiscal year ending September 30, 2010. Thank you for your cooperation in negotiating the terms of the Agreement.

The Recovery Agreement and Exhibit A, Action Plan, is a binding contract required by federal statute that delineates performance outcomes, timelines, and reporting requirements that must be strictly adhered to. It also specifies remedies to achieve agreed-upon levels of performance. Your first periodic report for the quarter ended March 31, 2012 must be received by HUD no later than April 15, 2012.

One of the terms of the Recovery Agreement may require the Benton Harbor Housing Commission to engage residents and other community stakeholders to develop a Sustainability Plan that identifies place-based solutions, steps, and resources to support the agency's recovery. You will be contacted by a HUD team member to assist you in initiating the process to develop a Sustainability Plan.

We look forward to working with the Benton Harbor Housing Commission to recover and achieve sustainable performance. If you have any questions concerning the Recovery Agreement and Action Plan, please contact via e-mail at Willie.C.Garrett@hud.gov or by telephone at (313) 226-7900, extension 8118. Thanks you for your ongoing assistance in this matter.

Sincerely,

Willie C. H. Garrett
Director
Office of Public Housing

Enclosure

Joseph L. Harris
Emergency Manager
City of Benton Harbor
200 Wall Street
Benton Harbor, MI 49022

Wilce Cooke
Mayor
City of Benton Harbor
200 Wall Street
Benton Harbor, MI 49022

Ora Greenwood
Commissioner
Benton Harbor Housing Commission
1280 Union Avenue
Benton Harbor, MI 49022

Joyce Hardin
Commissioner
Benton Harbor Housing Commission
620 Green Avenue
Benton Harbor, MI 49022

Charles Yarbrough
Commissioner
Benton Harbor Housing Commission
228 Territorial Road, #2
Benton Harbor, MI 49022

Juanita Gibbs
Executive Director
Benton Harbor Housing Commission
721 Nate Wells Drive
Benton Harbor, MI 49022

Recovery Agreement between
Benton Harbor Housing Commission
And
The United States Department of Housing and Urban Development
And
The City of Benton Harbor

This Recovery Agreement is entered into between the Benton Harbor Housing Commission, the UNITED STATES DEPARMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") and the City of Benton Harbor as of this 26th day of January 2012, Year.

RECITALS

WHEREAS, under the United States Housing Act of 1937, as amended, ("Act"), 42 U.S.C. § 1437 *et seq.*, the United States Department of Housing and Urban Development ("HUD") is responsible for administering low income housing programs, and pursuant to the Act, HUD has entered into an Annual Contributions Contract ("ACC") with the Benton Harbor Housing Commission to develop and operate public housing projects of the Benton Harbor Housing Commission; and

WHEREAS, pursuant to the Act, HUD must evaluate public housing performance and has instituted the Public Housing Assessment System ("PHAS"); and

WHEREAS, on the basis of an annual PHAS score, the Benton Harbor Housing Commission has been designated Troubled or Substandard for financial, physical and/or management indicators, or other such deficiencies as HUD has identified; and

WHEREAS, the Act requires HUD to enter into agreements that establish performance targets, set out strategies for meeting targets, provide for incentives and sanctions for effective implementation of the strategies leading to recovery of performance and attain an improved status of at least a Standard Performer; and

WHEREAS, the recovery of performance is intended to lead to a sustainable sound fiscal management and good governance; and

WHEREAS, the parties desire to correct all HUD-identified deficiencies through the implementation of this Recovery Agreement, ("Agreement");

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, HUD, the Benton Harbor Housing Commission and the City of Benton Harbor agree as follows:

I. The Benton Harbor Housing Commission agrees to achieve the outcomes outlined in the Action Plan and incorporated into this Agreement as Exhibit A.

II. The Benton Harbor Housing Commission and the City of Benton Harbor agree to work together to develop and implement a Sustainability Plan if necessary to achieve recovery.

III. The Action Plan describes the results following HUD's review and assessments of PHA performance, the measures that need to be implemented to improve the performance and the desired outcomes to be achieved and establishes a timetable to achieve those outcomes. The Action Plan also identifies the available remedies to resolve HUD's determination of non-performance.

IV. Upon execution of the Agreement, the Benton Harbor Housing Commission will commence with the required actions listed in the Plan within the timeframes set forth therein.

V. The Benton Harbor Housing Commission will cure identified deficiencies within the timeframes established in the Action Plan.

VI. Subject to section XII, regardless of possible changes in the Benton Harbor Housing Commission's Board composition, or the decision-making individuals for HUD or the City of Benton Harbor, the term of this Agreement is effective as of the execution date of this document and will continue until completion of the Action Plan in accordance with 6(j) (2) and (3) of the Act, and any agreed upon extensions. This Agreement will remain in effect until the Benton Harbor Housing Commission has completed all items listed in the Plan, even if HUD removes the Benton Harbor Housing Commission's troubled/substandard designation.

VII. HUD, in its discretion, may provide technical assistance, including training or contract support, to the Benton Harbor Housing Commission to facilitate accomplishment of the items in the Action Plan. The Benton Harbor Housing Commission's compliance with the Action Plan, however, shall not be contingent on HUD's provision of any technical assistance or other discretionary assistance.

VIII. The Benton Harbor Housing Commission shall provide HUD with written progress reports as identified in the Action Plan. The report shall detail the Benton Harbor Housing Commission's progress towards the completion of the items required by the Action Plan. The reports shall identify those items that have been completed and provide any necessary documentation to support this determination.

IX. HUD will review the Action Plan progress reports submitted by the Benton Harbor Housing Commission and supporting documentation. HUD will confirm in writing to the Benton Harbor Housing Commission the items that HUD determines to have been successfully completed, those that require additional documentation and those that are past due.

X. If the Benton Harbor Housing Commission disagrees with HUD's determination concerning the completion of any item, the Benton Harbor Housing Commission may request a reconsideration of the determination and submit additional information to support its position. HUD will provide the Benton Harbor Housing Commission with a written notice of its decision.

XI. The failure of the Benton Harbor Housing Commission, its employees, officers, agents, or contractors to comply with this Agreement, including the failure to achieve the agreed upon outcomes or to take the actions or comply with the time frame set forth in the Action Plan, may result in HUD seeking any available remedies, including any of the following actions sequentially or simultaneously:

a. Consolidation;
b. Consortia/Joint Venture;
c. Contraction of Operational Activities;
d. Cooperative Endeavor Agreement;
e. Debarment;
f. Deliver possession and control of project(s) to HUD;
g. Limited Denial of Participation;
h. Receivership; and/or
i. Suspension.

XII. The parties by mutual written agreement may agree to extend the timeframes set forth in the Action Plan from time to time. In the event said timeframes are extended, HUD agrees that it will not take any of the actions against the Benton Harbor Housing Commission as set forth in this section of the Agreement for noncompliance with original timeframes.

XIII. Communication related to the Recovery Agreement and Action Plan shall be provided to the Public Housing Director and the HUD Recovery Team leader, if applicable.

XIV. HUD, the Benton Harbor Housing Commission and their employees, subcontractors, partners or assigns, and the City of Benton Harbor shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Agreement to which their activities are subject.

XV. Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, riots, civil commotion, force majeure, acts of God, or for any other cause of same character which is unavoidable through the exercise of due care and beyond the control of the parties, provided that said failure or delay in the performance of this Agreement attributed to any of the events described herein is acknowledged in writing by HUD. Upon the issuance of HUD's written acknowledgement, the failure to perform shall be deemed excused during the continuance of such circumstances as determined by HUD, but this Agreement shall otherwise remain in effect.

XVI. In the event of any conflict between terms in this Agreement, including all exhibits, attachments and all other documents specifically incorporated by reference, and HUD's applicable Public Housing requirements including, but not limited to, the Act, HUD regulations there under (and, to the extent applicable, any HUD-approved waivers of regulatory requirements), the ACC, HUD notices, the HUD-approved Declaration of Trust or Declaration of Restrictive Covenants in favor of HUD, and all applicable Federal statutory, executive order and regulatory requirements, as those requirements may be amended from time to time, the applicable Public Housing requirements shall prevail. HUD reserves the right to resolve any conflict.

XVII. Any modification or amendment of any condition or provision in this Agreement by either party will not imply or constitute a further modification or amendment of the same or any other condition or provision, nor shall it relieve the parties from performing any subsequent obligations strictly in accordance with the term of this Agreement. No modification or amendment shall be effective unless in writing and signed by the party against whom enforcement is sought. Such modification or amendment shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a modification or amendment of any other provision. No modification or amendment of this Agreement shall constitute a HUD-approved waiver of regulatory requirements.

XVIII. Should any term or provision of this Agreement be held, to any extent invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.

XIX. To the extent authorized by the Act and HUD regulations, HUD can unilaterally amend this Agreement. Otherwise, this agreement may be amended by mutual agreement of the parties.

XX. This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Agreement. However, this Agreement does not supersede, modify or amend the ACC as further described in Paragraph XXII. The parties recognize that any representations, statements or negotiations made by the staff of either party does not suffice to legally bind either party in a contractual relationship unless they have been reduced to writing and signed by their authorized representative(s). This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

XXI. This Agreement may be executed and delivered in separate counterparts, which, when so executed and delivered, shall be deemed an original.

XXII. This Agreement does not supersede, modify or amend the ACC between HUD and the Benton Harbor Housing Commission, or in any way excuse the Benton Harbor Housing Commission from complying fully with its obligations under the ACC. HUD does not waive its statutory, regulatory or contractual rights. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD's right to take any remedial action allowed by the ACC or any provision of the Act or related regulations. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD or the Benton Harbor Housing Commission's right to take any remedial action allowed by the Agreement.

XXIII. The parties agree that any cost associated with the implementation of this Agreement, the Action Plan and the Sustainability Plan shall be their individual responsibility unless specifically agreed in writing between the parties.

XXIV. The City of Benton Harbor, through its Appointing Authority, acknowledges the importance of effective governance as part of the recovery and sustainability of the Benton Harbor Housing Commission. As a signatory of this Agreement, the City of Benton Harbor commits to oversee and monitor its duly appointed agents, the appointees to the Benton Harbor Housing Commission Governing Board, in the discharge of their duties. Upon the discovery of any failure of the Benton Harbor Housing Commission Board to discharge its duties under this Agreement, the City of Benton Harbor will take all necessary steps to correct the Board's actions or omissions and ensure compliance with the terms of this Agreement.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: _____

Willie Garrett
Public Housing Director
Detroit Field Office

Benton Harbor Housing Commission
ATTEST: BY ITS BOARD OF COMMISSIONERS

By: _____

Ralph Crenshaw
Board Chair
Benton Harbor Housing Commission

By: _____

Juanita Gibbs
Executive Director
Benton Harbor Housing Commission

By: _____

Joseph L. Harris,
Emergency Manager
City of Benton Harbor

Action Plan--Exhibit A to the Recovery Agreement between the PHA Name and HUD

Item Number	Results and Determinations from Assessment	Desired Outcome	Measures to Achieve Outcomes	Target Accomplishment Date	Actual Accomplishment Date	Remedies	Comments /Accomplishments
	AREA: GOVERNANCE						
1	1) Appointment of fifth Commissioner to Board	To have a full board for governance	Advise EFM to appoint Board Member	June 29, 2011/November 16, 2011	June 29, 2011/November 16, 2011	TBD	Met with EFM on November 16, 2011 and reminded of vacancy as discussed in June 2011. It was agreed that one will be appointed. HC to send names of potential selectees.
2	1a: See above	See above	EFM to appoint Board Member	11/30/2011		TBD	
3	2) Train New Board Member(s)	To understand the roles and responsibilities of the position.	Attend local training as designed	12/14 - 12/16/11		TBD	To be held in Sturgis, MI hosted by NAHRO MI Chapter
4	3) Maintain open lines of communication with City Officials	To minimize misunderstandings; improve housing and community development in Benton Harbor and maintain	Schedule quarterly meetings	1st, 2nd, 3rd and 4th qrt		TBD	
5	4) Board will develop Annual Performance Evaluation for ED and perform an annual evaluation	1) Board to create Performance Plan and implement Annual Evaluation 2) Conduct a progress evaluation	Plan is created and evaluation is completed	Progress plan to be completed by January 17, 2012 and Annual Evaluation to be conducted no later than 15 days after FY End. Progress review to be conducted on March 21, 2012 to include the Recovery Plan and the newly development Performance Plan.		TBD	HUD to assist in locating ED evaluations/performance plan
	AREA: FINANCE						
6	1) Full conversion to Asset Management	To be in compliance with PIH Notice 2009-32 relating to conversion to AM.	BHHC will: 1) Establish separate bank accounts for AMPS; 2) Ensure Security Deposits are correctly administered (deposit/withdrawal); 3) Establish COCC Fee for Service Accounting; 4) Determine and transfer Book keeping and Management Fees to the COCC account; and 5) Transfer plummer to the COCC and bill accordingly	1-Mar-12		TBD	BHHC to review PIH Notice 2009-32 relating to Asset Management conversion. Compliance will be evaluated using Attachment A of the PIH Notice 2009-32.
7	2) Monthly Board Reports	Add: 1) Total amount owed by tenant(s) who moved out within the reporting month; 2) vacancy loss (Avg Month	To ensure Financial integrity	3rd Tuesday of December		TBD	Will seek guidance/examples from another PHA.
8	3) Reimburse Low-Income program from HCV program	To be in compliance with Accouting structure	Continue with monthly payments into the Low-Rent program.	3/1/2012		TBD	
9	4) $10,000 from Hope VI grant	Close the accounting issue as $10K remains in bank account	A letter to be sent to the Field Office requesting that the $10,000 be used for CSS.	12/1/2011		TBD	
10	5) Utilize balance of Hope VI Endowment ($456,000)	A viable community service program for BHHC tenants	BHHC will: 1) Revise budget and submit to Local Field Office for possible approval; 2) Create Job Description for Community Support Specialist (CSS) 3) Hire CSS who will create a plan of services and 4) Implement programs	4/1/2012		TBD	
11	6) Billings from the City are having a negative impact on the Financial status of the BHHC. Which include water bill deposit; rental registration fees; and PILOT.	Reduced cost to the BHHC if eliminated.	City of BH will waive rental registration/inspection and fees in lieu of BHHC's certified inspectors; and the annual inspections by HUD's REAC per meeting on November 16, 2011. In addition the City will waive the $50 reactivation fee of water turn-off. City to provide confirmation that BHHC is current on its PILOT payments per Tonia Williams	12/1/2011		TBD	
12	7) BHHC had no operating reserves. BHHC sold and closed on property to the Boys and Girls Club on September 27, 2011 resulting in the creation of $155,557 in operating reserves.	To maintain and increase operating reserves (MENAR). BHHC will increase scores to a ratio of 3.	BHHC will: 1) Terminate its contract with the Family Investment Center to save approximately $12K/yr (completed 10/18/11); 2) Convert accounting structure to an Asset Management concept; 3) Reduce maintenance staff and contract out maintenance services; 4) Maximize usage of Rooftop rental; and 5) Increase rental of community space to public.	3/1/2012		TBD	
13	8) BHHC had a quik ratio insufficient to cover monthly operating expenses.	Quik ratio of at least 1	BHHC will: 1) Revise rent collection policy; 2) Reduction in force and services; 3) Reduced work week; 4) Cut salaries and 5) Reduced benefits packet.	1/1/2010	1/1/2010	TBD	Ongoing
	AREA: PHYSICAL						
14	1) BHHC's Maintenance staff lacks capacity to perform the needed repairs and unit turn.	Maintain long-term viability and increase curb appeal. Also to increase the mission to provide decent, safe and sanitary housing for tenants.	BHHC will contract out services for: 1) Unit turn; 2) Landscaping and 3) Work Order completion (i.e., wall repair, graffiti removal, appliance repair, cyclical painting of units, electrical, carpentry, etc.) as needed.	N/A See below		TBD	
15	1a: Prepare RFPs for Carpentry, Electrical, Painting, Cleaning and Landscaping design	See above		3/1/2012		TBD	
16	1b: Evaluate responses to received bids	See above		1-May-12		TBD	
17	1c: Award to acceptable bidder	See above		6/1/2012		TBD	
18	1d: Execute contracts	See above		6/15/2012		TBD	

Action Plan--Exhibit A to the Recovery Agreement between the PHA Name and HUD

Item Number	Results and Determinations from Assessment	Desired Outcome	Measures to Achieve Outcomes	Target Accomplishment Date	Actual Accomplishment Date	Remedies	Comments /Accomplishments
19	2) Prepare and approve Landscaping Plan	See above		6/1/2012		TBD	
20	3) Curb Appeal of Buss Development	Increase curb appeal	BHHC will complete and maintain the following: 1) Removal of cable/tv wires from buildings; 2) Removal of graffiti from buildings and prepare a plan to remove within 24 hours; 3) Edge grass around development; 4) Notify residents of their responsibility to clean around their unit; 4) Repair missing facia; 5) Construct garbage enclosure; 6) Contact Rubbish company to replace and maintain decent Trash Bins	4/1/2012		TBD	With the understanding that some of these items can be completed prior to specified target date.
21	4) Property Manager lacks managing by walking around	Increase curb appeal and lease compliance	BHHC to create and/or update checklist for management/maintenance staff for daily walk through of properties managed. Staff to be trained on responsibility and accountability.	2/1/2011		TBD	
22	5) Repair roads at the Buss Development	Increase curb appeal	City will add to its action plan/budget to repair the roads at this development	1/1/2012		TBD	
23	6) City to complete road repair at Buss Development	Increase curb appeal	City will repair roads	8/1/2012		TBD	
24	7) Remove Shed and Guard Shed area at the Buss Development	Increase curb appeal	BHHC will prepare plan to remove both sheds and increase curb appeal around office/maintenance space.	3/1/2012		TBD	
25	7a: Removal of both sheds	Increase curb appeal	BHHC will remove both sheds	7/1/2012		TBD	Determined by budget
26	8) Trash compactor at Harbor Towers to be made inactive.	Increase curb appeal	BHHC will provide a plan to seal up trach chutes on each floor and install dumpsters on exterior of building. This to include training to tenants on proper trash removal. Special consideration and accommodation will be provided to those tenants unable to remove trash themselves	6/1/2012		TBD	
27	9) Tenants unable to regulate temperature in individual units. Force heat causes unit to become too hot that tenants are opening windows during colder months and causing heat to escape increasing bill payment	Allow tenant to regulate temperature and possibly r	BHHC will contact a heating company to evaluate and/or repair heating in individual units and implement a corrective action plan.	1/1/2012		TBD	Date may be extended based on review of one or two units by heating company.

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

Ora Greenwood
Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Vice Chairman

Erin Hudson
Commissioner

Resolution: #1206a

RESOLUTION

Approval of the Benton Harbor Housing Commission's 2011 Audit

July 17, 2012

The Benton Harbor Housing Commission has reviewed approved the 2011 Audit conducted by Barry E. Gaudette, CPA, P.C.

Juanita Gibbs
BHHC, Executive Director

Ralph Crenshaw
Board Chairman

Providing Safe, Decent, Sanitary Housing Since 1949

BENTON HARBOR HOUSING COMMISSION
BERRIEN COUNTY, MICHIGAN

FINANCIAL STATEMENTS

FOR THE YEAR ENDED SEPTEMBER 30,2011
AND
REPORTS ON INTERNAL CONTROL AND COMPLIANCE

BENTON HARBOR HOUSING COMMISSION
TABLE OF CONTENTS
SEPTEMBER 30,2011

	Page
Independent Auditor's Report	1
Management's Discussion and Analysis (unaudited)	3
Basic Financial Statements:	
Statement of Net Assets	11
Statement of Revenue, Expenses, and Changes in Net Assets	12
Statement of Cash Flows	13
Notes to Financial Statements	15
SUPPLEMENTAL INFORMATION	
Combining Statement of Net Assets by Program	25
Combining Statement of Revenues, Expenses, and Changes in Net Assets by Program	27
Combining Statement of Cash Flows by Program	28
Schedule of Expenditures of Federal Awards and Notes to the Schedule of Federal Awards	30
Financial Data Schedule	31
REPORTS ON INTERNAL CONTROL AND COMPLIANCE	
Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*	35
Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133	37
Status of Prior Audit Findings	39
Schedule of Findings and Questioned Costs:	
Section I - Summary of Auditor Results	40
Section II - Financial Statement Findings	40
Section III - Federal Awards Findings	40

INTRODUCTION

Barry E. Gaudette, CPA, P.C.
CERTIFIED PUBLIC ACCOUNTANT

731 South Garfield Avenue
Traverse City, Michigan 49686
Work (231) 946-8930
Cell (231) 409-7526
Fax (231) 946-1377

Independent Auditor's Report

Board of Commissioners
Benton Harbor Housing Commission
Berrien County, Michigan

I have audited the accompanying financial statements of the business-type activities of the Benton Harbor Housing Commission, Michigan, (Housing Commission) a component unit of the City of Benton Harbor, as of and for the year ended September 30, 2011, which comprise the Housing Commission's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Housing Commission's management. My responsibility is to express an opinion on these financial statements based on my audit..

I conducted my audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. I believe that my audit provides a reasonable basis for my opinion.

In my opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the business-type activities ofthe Benton Harbor Housing Commission, Michigan, as of September 30, 2011, and the changes in financial position, and cash flows, thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards,* I have also issued my report dated January 11,2012, on my consideration of the Benton Harbor Housing Commission, Michigan's internal control over financial reporting and on my tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of my testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance.. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of my audit..

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through ,10 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.. I have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to my inquiries, the basic financial statements, and other knowledge I obtained during my audit of the basic financial statements. I do not express an opinion or provide any assurance on the information because the limited procedures do not provide me with sufficient evidence to express an opinion or provide any assurance.

My audit was conducted for the purpose of forming an opinion on the financial statements that comprise Benton Harbor Housing Commission, Michigan's financial statements as a whole. The accompanying Housing Commission combining financial statements and financial data schedule are presented for the purpose of additional analysis and are not a required part of the financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-l33, *Audits of States, Local Governments, and Non-Profit Organizations,* and is also not a required part of the financial statements. The schedule of expenditures of federal awards, combining financial statements, and the financial data schedule are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In my opinion, the information is fairly stated in all material respects in relation to the fmancial statements taken as a whole.

Barry E. Gaudette, CPA, PC

January 11,2012

Benton Harbor Housing Commission
Management's Discussion and Analysis (MD&A)
September 30,2011
(Unaudited)

As management of the Benton Harbor Housing Commission we offer reviewers of this audit report this narrative discussion and analysis of the Benton Harbor Housing Commission's financial activities for the fiscal year ended September 30, 2011.. This discussion and analysis letter of the Benton Harbor Housing Commission's financial performance should be read in conjunction with the auditor's opinion letter and the following Financial Statements.

The combined financial statements reflect all of the Commission's federally funded programs and activities in one place. The Commission reports all its activities and programs using the Enterprise Fund type model.. HUD encourages PHAs to use this accounting method as it is normally used to account for "business-type activities" - activities similar to those found in the private sector.. Enterprise Fund types use the accrual method of accounting, the same accounting method employed by most private-sector businesses. Under this method, revenues and expenditures may be reported as such even though no cash transaction has actually taken place.

FINANCIAL IDGHLIGHTS

The term "net assets" refers to the difference between assets and liabilities. The Commission's total net assets as of September 30, 2011 were $8,078,122.. The net assets increased by $137,524, an increase of 1.8% over the prior fiscal year..

Revenues and contributions for the Commission were $3,488,238 for the fiscal year ended September 30, 2011.. This was a decrease of$I,819,280 or 34.3% from the prior fiscal year..

Expenses for the Commission were $3,350,714 for the fiscal year ended September 30,2011. . This was an increase of$137,180 or 4.3% over the prior fiscal year..

I-IUD operating grants were $2,306,528 for the fiscal year ended September 30, 2011.. This was an increase of $181,008 or 8.6% over the prior fiscal year.. Capital contributions were $365,470 for the fiscal year ended September 30,2011. This was a decrease of $2,044,307 or 84.9% from the prior fiscal year..

OVERVIEW OF THE FINANCIAL , STATEMENTS

This annual report contains this *Management & Discussion Analysis* report, the *Basic Financial Statements* and the *Notes to the Financial Statements.* This report also contains the Financial Data Schedule (FDS) as referenced in the sectiori of *Supplemental Information.* The Commission's financial statements are presented as fund financial statements because the Commission only has proprietary funds.

OVERVIEW OF THE FINANCIAL STATEMENTS (Continued)

Required Financial Statements

The *Statement of Net Assets* includes the Commission's assets and liabilities and provides information about the nature and amounts of investments in resources (assets) and obligations of the Commission creditors (liabilities). It also provides the basis for evaluating the liquidity and financial flexibility of the Commission.

All ofthe current year's revenues and expenses are accounted for in the *Statement of Revenues, Expenses, and Changes in Net Assets.* This statement measures the success of the Commission's operations over the past year and can be used to determine whether the Commission has successfully recovered all its costs through its user fees and other charges, profitability and credit worthiness.

The final required financial statement is the *Statement of Cash Flows.* The statement reports cash receipts, cash payments, and net changes in cash resulting from operations, investing and financing activities and provides answers to such questions as where did cash come from, what was cash used for, and what was the change in the cash balance during the reporting period.

Notes to the Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the basic financial statements and provide more detailed data.

Supplemental Information

This report also contains the Financial Data Schedule (FDS) as referenced in the section of *Supplemental Information.* HUD has established Uniform Financial Reporting Standards that require Housing Commissions to submit financial information electronically to HUD using the FDS format.. This financial information was electronically transmitted to the Real Estate Assessment Center (REAC) and is required to be included in the audit reporting package.

FUND STATEMENTS

The Financial Data Schedule reports the Commission's operations in more detail.. The Commission reports all its activities using Enterprise fund types. These funds are used to show activities that operate more like commercial enterprises. The Financial Data Schedule is organized by the government Catalogue of Financial Domestic Assistance (CFDA) numbers.

FUND STATEMENTS (Continued)

Low Rent Public Housing Program: Under this program, the Housing Commission rents units that it owns to low-income elderly and family households. This program is operated under an Annual Contributions Contract with HUD. HUD provides Operating Subsidies to enable the Housing Commission to lease these units at a rate that is based on 30% of the household income or a flat rent.

Capital Fund Program: Under this program, the Housing Commission is awarded funds each year to use for Capital needs. The Housing Commission is awarded funds each year to use for Capital needs. This program is the primary funding source for physical improvements to its properties.

Section 8 Housing Choice Voucher Program: Under this program, the Housing Commission administers contracts with independent landlords to provide housing for low-income households. These units are not owned by the Housing Commission. The Housing Commission subsidizes the family's rent via a "Housing Assistance Payment" made directly to the landlord. HUD provides subsidy to the Housing Commission to enable the Housing Commission to set the rental rates at 30% to 40% of a participant's Income.

Endowment Fund: In addition to HUD providing decent, safe and affordable housing, the primary objective of the redevelopment of Whitfield I, now known as Harbor Bluffs, is to provide Community and Supportive Services (CSS) to eligible residents displaced by the project. The CSS component of the HOPE VI grant is essential in moving residents towards self sufficiency. In addition to procuring the services of a contract consultant, the BHHC will use its existing services provider network to maintain the continuity of services for residents. An addendum to the Harbor Bluffs HOPE VI Revitalization Grant Agreement (the "Addendum") was made by, and between, the Benton Harbor Housing Commission (the "Commission") and the United States Department of Housing and Urban Development *("HVD")* as September 24,2009. The Addendum reflects HOPE VI funds that shall be maintained in an Endowment Trust and used solely for planning, providing, and evaluating community and supporting social services for the primary benefit of the public housing residents of the Harbor Bluffs community, and former residents of the Whitfield I development, still living under the rules ofBHHC.

FINANCIAL ANALYSIS

Net assets may serve, over time, as a useful indicator of a government's financial position. As stated in the following table, assets exceeded liabilities by $8,078,122 at the close of the fiscal year ended September 30,2011 an increase from $7,940.,598 in 2010. The increase in net assets of$137,524 was due to the positive change in net assets for the current fiscal year..

FINANCIAL ANALYSIS (CONTINUED)

CONDENSED STATEMENTS OF NET ASSETS
September 30,

	2011	2010	Dollar Change	Per Cent Change
Current and other assets	$ 1,284,128	$ 945,234	$ 338,894	35.9%
Capital assets	7,513,811	7,777,072	(263,261)	(3,4)%
Total Assets	8,797,939	8,722,306	75,633	0.9%
Current liabilities	374,020	781,708	(407,688)	(52.2)%
Noncurrent liabilities	345,797	0	345,797	100.0%
Total Liabilities	719,817	781,708	(61,891)	(8.0)%
Net Assets:				
Invested in capital assets	7,513,811	7,777,072	(263,261)	(3,4)%
Restricted net assets	231,521	246,049	(14,528)	(5.9)%
Unrestricted net assets	332,790	(82,523)	415,313	503.3%
Total Net Assets	$ 8,078,122	$ 7,940,598	$ 137,524	1,8%

Total current assets increase of $33 8,894, in large part, due an increase of $335,997 in cash flows.

The liabilities decreased by $61,891 due to deferred revenues from the HOPE VI program being offset by monthly expenses.

The largest portion of the Commission's net assets reflects its investment in capital assets (e.g. land, buildings and equipment) less accumulated depreciation. The Commission uses these capital assets to provide service and consequently these assets are not available to liquidate liabilities or other spending.

While the Statement of Net Assets shows the change in financial position of net assets, the Statements of Revenues, Expenses, and Changes in Net Assets provides answers as to the nature and source of these changes.

FINANCIAL ANALYSIS (Continued)

CONDENSED STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS
September 30,

	2011	2010	Dollar Change	Per Cent Change
Revenues and contributions				
Operating, non operating, capital contributions:				
Tenant revenue	$ 459,375	$ 488,899	$ (29,524)	(6.1)%
Non dwelling rent	21,750	35,186	(13,436)	(38.2)%
Total PHA generated revenue	481,125	524,085	(42,960)	(8.2)%
HUD operating grants	2,306,538	2,125,530	181,008	8.6%
Capital contributions	365,470	2,409,777	(2,044,307)	(84.9)%
Other income	215,328	232,563	(17,235)	(7.5)%
Interest income	952	15,563	(14,611)	(93.9)%
Gain on sale of capital assets	118,825	0	118,825	100.0%
Total Revenues and Contributions	3,488,238	5,307,518	(1,819,280)	(34.3)%
Expenses				
Personnel services	606,489	416,178	190,311	45.8%
Utilities	268,947	211,533	57,414	27.2%
Maintenance	264,884	226,855	38,029	16.8%
Insurance	97,829	82,987	14,842	17.9%
Payments in lieu of taxes	23,155	27,938	(4,783)	(17.2)%
Administrative allocated overhead	0	223,546	(223,546)	(100.0)%
Other supplies and expenses	249,488	186,036	63,452	34.1%
Other general expenses	257,892	293,328	(35,436)	(12.1)%
Housing Assistance Payments	990,034	927,298	62,736	6.8%
Depreciation	591,996	617,835	(25,839)	(4.2)%
Total Expenses	3,350,714	3,213,534	137,180	4.3%
Change in net assets	137,524	2,093,984	(1,956,460)	
Prior period adjustments	0	(16,830)	16,830	
Equity transfers	0	(15,441,139)	15,441,139	
Beginning net assets	7,940,598	21,304,583	(13,363,985)	
Ending net assets	$ 8,078,122	$ 7,940,598	$ 137,524	

Revenues:

As can be seen in the above table total revenues and contributions decreased by $1,819,280, in large part, due to Federal grants decreasing by $1,863,299 from the prior fiscal year. A portion of the Housing Commission's land was sold, resulting in the $118,825 gain from the sale of capital assets.

FINANCIAL ANALYSIS (Continued)

Revenues (continued):

Benton Harbor Housing Commission's primary revenue sources are subsidies and grants received by HUD. Please note that Capital Fund Program grants classified as soft costs in the amount of$92,113 and remaining amount as hard cost revenue. For fiscal year ending September 30,2011, revenue generated by the Commission accounted for $481,125 (or 14% of total revenue), while HUD contributions accounted for $2,672,008 (or 77% of total revenue).

Expenses:

Total expenses for the fiscal year ending September 30, 2011 were $3,350,714 while for the fiscal year ending September 30,2010 they were $3,213,534. This represents a 4.3% increase in our operating costs. The expenses increased by $137,180, in part, due to; personnel services increasing by $190,311, but when offsetting the administrative allocated overhead costs in the prior fiscal year the change is minimal; gas costs increased by $16,006, electricity costs increased by $25,838, and sewer costs increased by $22,047; maintenance contracts increased by $27,674.

The following represents changes in Federal Assistance received:

	09/30111	09/30110	Dollar Change	Per Cent Change
Low Rent Operating Subsidy	$ 1,119,517	$ 1,118,957	$ 560	0.1%
Public Housing Capital Fund	325,731	122,938	202,793	165.0%
Housing Choice Vouchers	1,030,020	945,341	84,679	9.0%
Formula Capital Fund Stimulus Grant	196,740	431,518	(234,778)	(54.4)%
Revitalization of Severely Distressed Public Housing (HOPE VI)	0	1,916,553	(1,916,553)	(100.0)%
Total	$ 2,672,008	$ 4,535,307	$ (1,863,299)	(41.1)%

The above chart is segregated as to the Program source of funds, not the use of funds. The increase in the Capital Fund Program was due to the fact that work projects during the fiscal year ending September 30, 2011 were for part of one year's capital funding versus the prior year's use of even less than one year's capital funding than what was used this current fiscal year. The HOPE VI program was completed during the prior fiscal year. The Stimulus Grant was a one-time grant and was completed during the current fiscal year.

FINANCIAL ANALYSIS (Continued)

Budget Analysis:

A Low Rent Public Housing Operating Budget for the fiscal year ending September 30, 2011 was presented to and approved by the Board of Commissioners. We had no reason to amend the budget during the fiscal year. Actual results were in line with the budgeted amounts.

OPERATIONAL mGHLIGHTS

The Benton Harbor Housing Commission provided the following housing for low-income individuals and families:

	September 30, 2011	September 30, 2010
Low Rent Public Housing Program	276	346
Section 8 Housing Choice Voucher Program	200	200

The Low Rent Public Housing Program had lvacancy as of September 30, 2011. The Housing Choice Voucher Program had 199 vouchers leased as ofthe last day of the month of September 2011..

CAPITAL ASSETS

The Benton Harbor Housing Commission's investment in capital assets, as of September 30, 2011 amounts to $7,513,811 (net of accumulated depreciation). This investment in capital assets includes land, buildings, improvements, and equipment..

CAPITAL ASSETS
NET OF ACCUMULATED DEPRECIATION
September 30,

	2011	2010	Dollar Change
Land	$ 85,074	$ 121,806	$ (36,732)
Buildings	17,234,427	16,630,992	603,435
Furniture, equipment and machinery - dwellings	132,840	108,018	24,822
Furniture, equipment and machinery - administration	232,469	232,469	0
Construction in progress	202,996	465,784	(262,788)
	17,887,806	17,559,069	328,737
Accumulated depreciation	(10,373,995)	(9,781,997)	(591,998)
Total	$ 7,513,811	$ 7,777,072	$ (263,261)

CAPITAL ASSETS (Continued)

Net capital assets decreased by $263,261, because of capital outlays of $(365,469) and the sale of land reduced land costs by $36,732, and depreciation of $591,998.

During the fiscal year ending September 30,2011, our Capital Fund Program work projects included:

Capital outlays included floor replacements at scattered sites; the electrical re-rnetering at the BUSS Development; repair Harbor Towers boilers; security upgrades; repair elevator damaged from vandalism; repair wiring in basement; repair water main break, landscaping; and repair front fence line at BUSS Development. .

Capital projects planned for the next fiscal year includes ADA unit conversion; replace heating furnaces and insert cooling coils; site improvements, replace community area flooring; replace apartment and common area lighting; and complete HVAC installation.

ECONOMIC FACTORS AND NEXT YEAR'S BUDGET AND RATES

The Housing Commission is primarily dependent upon BUD for the funding of operations as well as capital needs. Therefore, the Housing Commission is affected more by the Federal Budget than by local economic conditions. The funding of programs could be significantly affected by the Federal Budget..

Although the Housing Commission remains concerned about the future levels of BUD funding due to the state of the federal budget, we feel that we are both financially and operationally in a strong position to continue to provide safe, sanitary, and decent housing to our residents.

We know of no other currently known facts, decisions, or conditions that are expected to have a significant effect on financial position (net assets) or results of operations (revenues, expenses, and other changes).

REQUEST FOR INFORMATION

This financial report is designed to provide a general overview of the Commission's finances for all those with an interest in its finances. Questions or comments concerning any of the information contained in this report or request for additional information should be directed to:

Juanita Gibbs, Executive Director
Benton Harbor Housing Commission
721 Nate Wells Drive
Benton Harbor, Michigan 49022

FINANCIAL STATEMENTS

Benton Harbor Housing Commission
Statement of Net Assets
September 30,2011

ASSETS	
Current Assets:	
Cash and cash equivalents	$ 1,234,693
Receivables, net	38,789
Prepaid expenses	10,646
Total Current Assets	1,284,128
Capital Assets:	
Land	85,074
Buildings	17,234,427
Equipment	365,309
Building improvements	202,996
	17,887,806
Less: accumulated depreciation	(10,373,995)
Net Capital Assets	7,513,811
Total Assets	$ 8,797,939
LIABILITIES and NET ASSETS	
Current Liabilities:	
Accounts payable	$ 83,076
Tenant security deposits	58,927
Accrued expenses	12,932
Deferred revenues	219,085
Total Current Liabilities	374,020
Noncurrent Liabilities:	
Deferred revenues	345,797
Total Liabilities	719,817
Net Assets:	
Invested in capital assets	7,513,811
Restricted net assets	231,521
Unrestricted net assets	332,790
Total Net Assets	8,078,122
Total Liabilities and Net Assets	$ 8,797,939

See notes to financial statements

Benton Harbor Housing Commission
Statement of Revenues, Expenses, And Changes in Net Assets
Year Ended September 30,2011

OPERATING REVENUES:	
Dwelling rent	$ 459,375
Non dwelling rent	21,750
Operating grants	2,306,538
Total operating revenues	2,787,663
OPERATING EXPENSES:	
Administration	613,718
Tenant services	6,349
Utilities	268,947
Maintenance	466,000
Insurance	97,829
General expenses	315,841
Housing assistance payments	990,034
Depreciation	591,996
Total operating expenses	3,350,714
Operating income (loss)	(563,051)
NONOPERATING REVENUES (EXPENSES):	
Investment interest income	952
Gain on sale of capital assets	118,825
Fraud recovery	1,074
Other income	214,254
Total non operating revenues (expenses)	335,105
Income (Joss) before contributions	(227,946)
CAPITAL CONTRIBUTIONS	365,470
Change in net assets	137,524
Net assets, beginning	7,940,598
Net assets, ending	$ 8,078,122

See notes to financial statements

Benton Harbor Housing Commission
Statement of Cash Flows
Year Ended September 30,2011

CASH FLOWS FROM OPERATING ACTIVITIES:	
Cash received from dwelling and non dwelling rents	$ 498,222
Cash received from operating grants	2,228,012
Cash payments to other suppliers of goods and services	(2,108,083)
Cash payments to employees for services	(612,184)
Cash payments for in lieu of taxes	(27,939)
Net cash (used) by operating activities	(21,972)
CASH FLOWS FROM NON CAPITAL FINANCING ACTIVITIES:	
Tenant security deposits	2,270
Fraud recovery	3,426
Other revenue	195,761
Net cash provided by noncapital financing activities	201,457
CASH FLOW FROM CAPITAL AND RELATED FINANCING	
Capital grants	365,470
Gain from sale of capital assets	118,825
Payments for capital acquisitions	(328,735)
Net cash (used) by capital and related financing activities	155,560
CASH FLOWS FROM INVESTING ACTIVITIES:	
Receipts of interest income	952
Net cash provided by investing activities	952
Net increase (decrease) in cash	335,997
Cash and cash equivalents, beginning	898,696
Cash and cash equivalents, ending	$ 1,234,693

See notes to financial statements

Benton Harbor Housing Commission
Statement of Cash Flows (Continued)
Year Ended September 30, 2011

RECONCILATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:

Operating income (loss)	$	(563,051)
Adjustments to reconcile operating (loss) to net cash provided (used)		
By operating activities:		
Depreciation		591,996
Bad debt allowance adjustment		(16,561)
Adjustment for eliminations		(7,812)
Changes in assets and liabilities:		
(Increase) decrease in assets:		
Accounts receivable-tenants		33,658
Accounts receivable-HUD		919
Prepaid expenses		3,040
Increase (decrease) in liabilities:		
Bank overdraft		(7,891)
Accounts payable-vendors		14,251
Accounts payable-PILOT		(4,784)
Accounts payable-HUD		(4,620)
Accrued wage/payroll taxes payable		(110)
Accrued compensated absences		(5,585)
Accrued liabilities-other		19,403
Deferred revenues		(74,825)
Net cash (used) by operating activities	$	(21,972)

See notes to financial statements

NOTE 1: Summary of Significant Accounting Policies

The Benton Harbor Housing Commission (the Housing Commission) is a component unit of the City of Benton Harbor, a Michigan home rule city. The Housing Commission is a Public Housing Agency created by the City of Benton Harbor on January 16, 1950, consisting of a five member board appointed by the City Manager and charged with the responsibility to provide low-rent housing, under the low rent program Annual Contributions Contract for qualified individuals in accordance with the rules and regulations prescribed by the Department of Housing and Urban Development and other Federal agencies.

The Housing Commission complies with U.S. generally accepted accounting principles (GAAP). GAAP includes all relevant Governmental Accounting Standards Board (GASB) pronouncements. In the financial statements for the proprietary fund, Financial Accounting Standards Board (FASB) pronouncements and Accounting Principles Board (APB) opinions issued on or before November 30, 1989, have been applied unless those pronouncements conflict with or contradict GASB pronouncements, in which case, GASB prevails. For enterprise funds, GASB Statement Nos. 20 and 34 provide the Housing Commission the option of electing to apply FASB pronouncements issued after November 30, 1989, except for those that conflict with or contradict a GASB pronouncement. . The Housing Commission has elected not to apply those pronouncements. The accounting and reporting framework and the more significant accounting policies 'are discussed in subsequent subsections of this Note.

l(a) Financial Reporting Entity

The Housing Commission's financial reporting entity comprises the following:

Primary Government: . Housing Commission

In determining the financial reporting entity; the Housing Commission complies with the provisions of GASB Statement No. 14 as amended by GASB No. 39, "The Financial Reporting Entity", and includes all component units, if any, of which the Housing Commission appointed a voting majority of the units' board; the Housing Commission is either able to impose its will on the unit or a financial benefit or burden relationship exists. There are no agencies, organizations or activities meeting this criteria.

l(b) Basis of Presentation

Financial statements of the reporting entity's programs are organized and reported as an enterprise fund and are accounted for by providing a set of self-balancing accounts that constitute its assets, liabilities, fund equity; revenues, and expenditures/expenses. Enterprise funds are used to account for business-like activities provided to its tenants. These activities are financed primarily by user charges and/or Federal funding and the measurement of financial activity focuses on net income measurement similar to the private sector. The reporting entity includes all of the Housing Commission's programs as an enterprise fund.

l(b) Basis of Presentation **(Continued)**

Following is a description of the Housing Commission's programs:

Program	**Brief Description**
Low Rent Program	Accounts for activities of the Public and Indian Housing program which BUD provides an annual subsidy to help public housing agencies (PHAs) pay some of the cost of operating and maintaining public housing units.
Housing Choice Vouchers Program	Accounts for activities of the Voucher program which assists very low income families, the elderly, and the disabled to afford decent, safe and sanitary housing in the private market..
Capital Fund Program	Accounts for activities of the Capital Fund which provides funds to housing authorities to modernize public housing developments.
Endowment Fund	In accordance with Section 24(d)(2) of the U.S. Housing Act of 1937, as amended, the Benton Harbor Housing Commission established on September 24, 2009, an endowment trust for supportive services, as defined in Section *240)(3)* of the Act, in connection with a fiscal year 2003 HOPE VI Revitalization Grant from the U.S. Department of Housing and Urban Development to the Housing Commission for the redevelopment of the public housing development formerly known as Whitfield 1.

l(c) **Measurement Focus and Basis of Accounting**

Measurement focus is a term used to describe "which" transactions are recorded within the various financial statements. Basis of accounting refers to "when" transactions are recorded regardless of the measurement focus applied.

Measurement Focus

In the financial statements, the "economic resources" measurement focus is used as follows:

The proprietary fund utilizes an "economic resources" measurement focus. The accounting objectives of this measurement focus are the determination of operating income, changes in net assets (or cost recovery), financial position, and cash flows. All assets and liabilities (whether current or noncurrent) associated with their activities are reported. Proprietary fund equity is classified as net assets.

Basis **of Accounting**

In the financial statements, the proprietary fund utilizes the accrual basis of accounting. Under the accrual basis of accounting, revenues are recognized when earned and expenses are recorded when the liability is incurred or economic asset used.

led) Assets, Liability, and Equity

Cash and Investments

For the purpose of the Statement of Net Assets, "cash and cash equivalents" includes all demand, savings accounts, and certificates of deposits or short-term investments with an original maturity of three months or less. For the purpose of the Statement of Cash Flows, "cash and cash equivalents" include all demand and savings accounts, and certificates of deposit or short-term investments with an original maturity of three months or less.

Investments are carried at fair value except for short-term U.S. Treasury obligations, if any, with a remaining maturity at the time of purchase of one year or less. Those investments, if any, are reported at amortized cost. Fair value is based on quoted market price. Additional cash and investment disclosures are presented in Note 2(b) and 3(a).

Interprogram Receivables and Payables

During the course of operations, numerous transactions occur within individual programs that may result in amounts owed between these programs. Offsetting interprograms are eliminated for financial statement presentation.

Receivables

Receivables consist of all revenues earned at year-end and not yet received. Tenant accounts receivable, accrued interest receivable and accounts receivable from U.S. Department of Housing and Urban Development compose the majority of receivables. Allowances for uncollectible accounts receivable are based upon historical trends and the periodic aging of accounts receivable.

Inventories

Inventories are valued at average cost, and consist of expendable supplies held for consumption. The cost of inventories are recorded as expenditures when consumed, rather than when purchased.

Insurance

The premiums on all major insurance policies are charged to prepaid insurance and amortized over the life ofthe policy.

Budgets and Budgetary Accounting

The Housing Commission adopts a formal operating budget each year for its operating programs and on a project length basis for its capital expenditures which are approved by the Board of Commissioners and submitted to the Department of Housing and Urban Development for their approval, ifrequired.

l(d) Assets, Liability, and Equity (Continued)

Estimates and Assumptions

The Housing Commission uses estimates and assumptions in preparing financial statements. These estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and reported revenues and expenses.

Capital Assets

The accounting treatment over property, plant, and equipment (capital assets) is as follows:

In the financial statements, capital assets purchased or acquired with an original cost of $300 or more are accounted for as capital assets. All capital assets are valued at historical cost, or estimated historical cost if actual is unavailable, except for donated capital assets which are recorded at their estimated fair value at the date of donation.

Depreciation of all exhaustible capital assets are recorded as an allocated expense depending on the program where the asset is shown, in the Statement of Revenues, Expenses, and Changes in Net Assets, with accumulated depreciation reflected in the Statement of Net Assets. Depreciation is provided over the assets' estimated useful lives using the straight-line method of depreciation. The range of estimated useful lives by type of asset is as follows:

Buildings	40 years
Building improvements	15 years
Equipment and furnishings	3 - 10 years

Compensated Absences

The Housing Commission's policies regarding vacation time permit employees to accumulate earned but unused vacation leave. The liability for these compensated absences is recorded as short-term and long-term liabilities based on historical trends. In accordance with the provisions of GASB Statement No. 16, no liability is recorded for non-vesting accumulating rights to receive sick pay benefits.

Equity Classifications

Equity is classified as net assets and displayed in three components:

a) Invested in capital assets, net of related debt - Consists of capital assets including restricted capital assets including restricted capital assets, net of accumulated depreciation an reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowing that are attributable to the acquisition, construction, or improvement of those assets.

b) Unrestricted net assets - All other net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt".

led) Assets, Liability, and Equity (Continued)

c) Restricted net assets - Consists of net assets of the Housing Choice Voucher program that are restricted for payments by HUD over the Housing Assistance Payments made to landlords. The Low Rent Program pays all of the administrative costs for the Housing Choice Voucher program and gets reimbursed from the Housing Choice Voucher program each month.

lee) Revenues, Expenditures, and Expenses

Operating Revenues and Expenses

Proprietary funds distinguish *operating* revenues and expenses from *non operating* items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the government's enterprise fund are charges to tenants for rents, non dwelling rents, and operating grants from HUD. Operating expenses for the operating fund include the cost of administrative, tenant services, utilities, ordinary maintenance and operation, general, casualty losses, housing assistance payments, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as non operating revenues and expenses.

Interfund Transfers

For the purposes of the Statement of Revenues, Expenses, and Changes in Net Assets (see page 12), all interfund transfers between individual programs, if any, have been eliminated.

Post Employment Benefits

The provision for pension cost is recorded on an accrual basis, and the Commission's policy is to fund pension costs as they accrue.

Income Taxes

As a component unit of a Michigan City, the Housing Commission is exempt from federal and state income taxes. The Housing Commission has no unrelated business income.

NOTE 2: Stewardship, Compliance, and Accountability

The Housing Commission and its component units, if any, are subject to various Federal, state, and local laws and contractual regulations. An analysis of the Housing Commission's compliance with significant laws and regulations and demonstration of its stewardship over Housing Commission resources follows.

2(a) Program Accounting Requirements

The Housing Commission complies with all state and local laws and regulations requiring the use of separate programs. The programs used by the Housing Commission are as follows:

Program	Required By
Public and Indian Housing	U.S. Department ofHUD
Capital Fund Program	U.S. Department ofHUD
Housing Choice Voucher Program	U.S. Department of HUD

2(b) Deposits and Investments Laws and Regulations

In accordance with state law, all uninsured deposits of the Housing Commission in financial institutions must be secured with acceptable collateral valued at the lower of market or par. All financial institutions pledging collateral to the Housing Commission must have a written Depositary Agreement. . As reflected in Note 3(a), all deposits were fully insured or collateralized.

Investments of the Housing Commission are limited by state law to the following:

a) Direct obligations of the U.S. Government or its agencies or instrumentalities to which acceptable collateral is pledged .:

b) Certificates of deposit or savings accounts that are either insured or secured with acceptable collateral. .

2(c) Revenue Restrictions

The Housing Commission has various restrictions placed over certain revenue sources. The primary restricted revenue sources include:

Revenue Source	*Legal Restrictions of Use*
Capital Fund Program	Modernization

For the year ended September 30, 2011, the Housing Commission complied, in all material respects, with these revenue restrictions.

NOTE 3: Detail Notes on Transactions Classes/Accounts

The following notes present detail information to support the amounts reported in the basic financial statements for its various assets, liabilities, equity, revenues, and expenditures/expenses.

3(a) Cash and Investments

Deposits

The Housing Commission's policies regarding deposits of cash are discussed in Note led). The table presented below is designed to disclose the level of custody credit risk assumed by the Housing Commission based upon how its deposits were insured or secured with collateral at September 30, 2011..

The categories of credit risk are defined as follows:

Category 1 - Insured by FDIC or collateralized with securities held by the Housing Commission (or public trust) or by its agent in its name.

Category 2 - Uninsured but collateralized with securities held by the pledging financial institution's trust department or agent in the Housing Commission's name.

Category 3 - Uninsured and uncollateralized; or collateralized with securities held by the pledging financial institution, or by its trust department or agent but not in the Housing Commission's name; or collateralized with no written or approved collateral agreement..

		Custody Credit Risk			
	Total Bank Balance	Category 1	Category 2	Category 3	Total Carrying Value
Demand deposits	$ 1,153,337	$ 750,000	$ 403,337	$ 0	$ 1,234,468

Investments

The Housing Commission did not have any investments.

A reconciliation of cash as shown on the combined statement of net assets is as follows:

Cash on hand	$ 225
Carrying amount of deposits	1,234,468
Total	$ 1,234,693
Cash and investments:	
Enterprise activities	$ 1,153,337
Enterprise activities - deposits in transit	100,861
Enterprise activities - checks written in excess of deposits	(19,505)
Total	$ 1,234,693

3(b) Receivables

Receivables detail at September 30, 2011, is as follows:

Miscellaneous	$ 26,305
Tenants-dwelling rents	11,857
Fraud recovery	627
	$ 38,789

3(c) Prepaid Expenses and Other Assets

Prepaid detail at September 30,2011, is as follows:

Prepaid insurance	$ 9,958
Prepaid employee benefits	688
	$ 10,646

3(d) Capital Assets

Capital asset activity for the year ended September 30, 2011, was as follows:

	Balance 09/30/10	Additionsl Transfers	Retirementsl Transfers	Balance 09/30/11
Low Rent Program				
Land	$ 121,806	$ 0	$ (36,732)	$ 85,074
Buildings	16,630,992	603,435	0	17,234,427
Furniture, equipment & machinery - dwellings	108,018	24,822	0	132,840
Furniture, equipment & machinery - administration	216,047	0	0	216,047
Construction in progress	465,784	0	(262,788)	202,996
	17,542,647	$ 628,257	$ (299,520)	17,871,384
Less accumulated depreciation	(9,774,770)	$ (589,652)	$ 0	(10,364,422)
Total	$ 7,767,877			$ 7,506,962
Housing Choice Voucher Program				
Furniture, equipment & machinery - administration	$ 16,422	$ 0	$ 0	$ 16,422
	16,422	$ 0	$ 0	16,422
Less accumulated Depreciation	(7,227)	$ (2,346)	$ 0	(9,573)
Total	$ 9,195			$ 6,849
				$ 7,513,811

3(d) Capital assets (Continued)

Depreciation expense was charged to functions/programs ofthe government as follows:

Business-type activities:		
Low Rent Program	$	589,650
Housing Choice Voucher Program		2,346
	$	591,996

3(e) Accounts Payable

Payable detail at September 30, 2011, is as follows:

Accounts payable-trade<=90 days	$	30,366
Accounts payable-HUD		10,153
Accounts payable-other goverrunent-PILOT		23,154
Accrued liabilities-other		19,403
	$	83,076

3(t) Accrued Expenses

Accrued expense detail at September 30,2011, is as follows:

Accrued wage/payroll taxes payable	$	9,418
Accrued compensated absences payable		3,514
	$	12,932

3(g) Deferred revenues

Low Rent Program-tenant prepaid rent	$	8,731
Low Rent Program-deferred revenue from HUD		95,773
Endowment Fund-current portion of revenue from HOPE VI		219,085
Endowment Fund-noncurrent portion of revenue from HOPE VI		345,797
	$	669,386

3(b) Inter program Transactions and Balance

Operating Transfers

There was an operating transfer of $119,509 from the capital fund program to the low rent program during the fiscal year ended September 30, 2011.

Equity Transfers

There were equity transfers of $196,740 from the Stimulus Grant, $168,730 from the CFP, and $243,170 from the Low Rent Program to the COCCo

3(h) Inter program Transactions and Balance

Interprogram Receivable/Payable

Low Rent Program	$ 3,031
Housing Choice Voucher Program	(3,031)
	$ 0

NOTE 4: Other Notes

4(a) Employee Retirement Plans

The Benton Harbor Housing Commission has a Defined Contribution Pension Plan (Plan) for governmental employees. The Plan allows for early retirement (age 55), normal retirement (age 65, employer contributions (10% of compensation), mandatory after-tax employee contributions (5% of compensation), and voluntary after tax employee contributions (1-10% of compensation). In addition to the above, no age requirements exist for eligibility, and 100% vesting is immediate. Plan assets and funding statistics are available under separat~ cover provided to the Commission by the Insurer..

4(b) Risk Management

The Housing Commission is exposed to various risks of loss related to torts; theft of, damage to, or destruction of assets; errors and omissions; injuries to employees; employees health and life; and natural disasters. Management believes such coverage is sufficient to preclude any significant uninsured losses to the Housing Commission. Settled claims have not exceeded this insurance coverage in any of the past three fiscal years.

4(c) Commitments and Contingencies

Commitments - Construction

At September 30,2011, the Housing Commission had the following pending construction projects in progress:

	Cumulative Obligated	Cumulative Expended
2009 CFRG	$ 628,259	$ 628,259
2009 CFP	471,093	342,713
2010 CFP	528,273	0
2011 CFP	455,607	0

Contingencies

The Housing Commission is subject to possible examination by Federal and State authorities who determine compliance with terms, conditions, laws and regulations governing other grants given to the Housing Commission in the current and prior years. No significant violations of finance-related legal or contractual provisions occurred.

SUPPLEMENTARY INFORMATION

COCC	Totals
$ 152,160	$ 1,234,693
21,452	38,789
7,282	10,646
3,031	3,031
183,925	1,287,159
10,000	85,074
587,460	17,234,427
176,258	365,309
0	202,996
773,718	17,887,806
(382,854)	(10,373,995)
390,864	7,513,811
$ 574,789	$ 8,800,970

COCC	Totals
$ 7,457	$ 83,076
0	58,927
4,484	12,932
0	219,085
0	3,031
11,941	377,051
0	345,797
11,941	722,848
390,864	7,513,811
0	231,521
171,984	332,790
562,848	8,078,122
$ 574,789	$ 8,800,970

Capital Fund Program	Stimulus Grant	COCC	Totals
$ 0	$ 0	$ 0	$ 459,375
0	0	0	21,750
92,113	0	0	2,306,538
92,113	0	0	2,787,663
21,510	0	211,018	837,664
0	0	0	6,349
0	0	40,324	268,947
15,982	0	26,641	477,877
0	0	14,282	97,829
0	0	6,649	315,841
0	0	0	990,034
0	0	18,028	591,996
37,492	0	316,942	3,586,537
54,621	0	(316,942)	(798,874)
(119,509)	0	0	0
0	0	8	952
0	0	0	118,825
0	0	0	1,074
0	0	228,011	228,011
0	0	43,131	222,066
(119,509)	0	271,150	570,928
93,464	196,740	0	365,470
28,576	196,740	(45,792)	137,524
(168,730)	(196,740)	608,640	0
0	0	0	7,940,598
$ (140,154)	$ 0	$ 562,848	$ 8,078,122

Stimulus Grant	COCC	Totals
$ 0	$ 0	$ 498,222
0	0	2,228,012
0	(115,649)	(2,336,094)
0	(178,606)	(612,184)
0	0	(27,939)
0	(294,255)	(249,983)
0	(3,031)	0
(196,740)	608,640	0
0	0	2,270
0	228,011	228,011
0	0	3,426
0	21,679	195,761
(196,740)	855,299	429,468
196,740	0	365,470
0	0	118,825
0	(408,892)	(328,735)
196,740	(408,892)	155,560
0	8	952
0	152,160	335,997
0	0	898,696
$ 0	$ 152,160	$ 1,234,693

Stimulus Grant	COCC	Totals
$ 0	$ (316,942)	$ (798,874)
0	18,028	591,996
0	0	(16,561)
0	0	33,658
0	0	919
0	(7,282)	3,040
0	0	(7,891)
0	4,774	14,251
0	0	(4,784)
0	0	(4,620)
0	2,990	(110)
0	1,494	(5,585)
0	2,683	19,403
0	0	(74,825)
$ 0	$ (294,255)	$ (249,983)

Benton Harbor Housing Commission
Schedule of Expenditures of Federal Awards
And Notes to the Schedule of Federal Awards
Year Ended September 30,2011

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

Fiscal Year	Federal Grantor	CFDA No.	Expenditures
	U.S. Department ofHUD		
	Public and Indian Housing Major - Direct Program		
2011	Low Rent Public Housing	14.850	$ 1,119,517
	Low Income Public Housing Non-Major - Direct Program		
2011	Housing Choice Vouchers	14.871	1,030,020
	Public and Indian Housing Major - Direct Program		
2011	Public Housing Capital Fund Program	14.872	325,73 I
	Public and Indian Housing Non-Major - Direct Program		
2011	Formula Capital Fund Stimulus Grant	14.885	196,740
	Total		$ 2,672,008

NOTES TO THE SCHEDULE OF FEDERAL AWARDS

NOTE 1: Significant Accounting Policies

The schedule of federal awards has been prepared on the accrual basis of accounting.

CFDA = Catalog of Federal Domestic Assistance

COCC	Totals
$ 152,160	$ 929,472
0	231,521
0	58,927
0	14,773
152,160	1,234,693
21,452	26,305
0	11,857
0	627
21,452	38,789
7,282	10,646
3,031	3,031
183,925	1,287,159
10,000	85,074
587,460	17,234,427
0	132,840
176,258	232,469
(382,854)	(10,373,995)
0	202,996
390,864	7,513,811
390,864	7,513,811
$ 574,789	$ 8,800,970

COCC	Totals
$ 4,774	$ 30,366
2,990	9,418
1,494	3,514
0	10,153
0	23,154
0	58,927
0	219,085
2,683	19,403
0	3,031
11,941	377,051
0	345,797
11,941	722,848
390,864	7,513,811
0	231,521
171,984	332,790
562,848	8,078,122
$ 574,789	$ 8,800,970

Capital Fund Program	Stimulus Grant	COCC	Totals
$ 0	$ 0	$ 0	$ 459,375
0	0	0	21,750
0	0	0	481,125
92,113	0	0	2,306,538
93,464	196,740	0	365,470
0	0	179,676	179,676
0	0	22,635	22,635
0	0	25,700	25,700
0	0	8	903
0	0	0	1,074
0	0	43,131	222,066
0	0	0	118,825
0	0	0	49
185,577	196,740	271,150	3,724,061
0	0	131,416	290,589
0	0	0	8,501
20,295	0	0	179,676
0	0	0	22,635
0	0	0	300
0	0	34,793	97,084
0	0	22,398	86,102
0	0	4,297	16,754
0	0	0	1,727
1,215	0	18,114	134,296
21,510	0	211,018	837,664
0	0	0	6,349
0	0	0	6,349
0	0	1,620	54,118
0	0	32,735	116,933
0	0	4,814	46,686
0	0	1,155	51,210
0	0	40,324	268,947

Capital Fund Program	Stimulus Grant	COCC	Totals
0	0	9,505	147,906
0	0	3,774	70,455
15,982	0	12,635	206,306
0	0	727	53,210
15,982	0	26,641	477,877
0	0	5,193	61,460
0	0	235	11,679
0	0	3,628	11,720
0	0	5,226	12,970
0	0	14,282	97,829
0	0	0	257,892
0	0	6,649	17,700
0	0	0	23,155
0	0	0	17,094
0	0	6,649	315,841
37,492	0	298,914	2,004,507
148,085	196,740	(27,764)	1,719,554
0	0	0	943,294
0	0	0	46,740
0	0	18,028	591,996
0	0	18,028	1,582,030
37,492	0	316,942	3,586,537
0	0	0	119,509
(119,509)	0	0	(119,509)
0	0	0	0
0	0	0	0
(119,509)	0	0	0
28,576	196,740	(45,792)	137,524

Capital Fund Program	Stimulus Grant	COCC	Totals
28,576	196,740	(45,792)	137,524
0	0	0	7,940,598
(168,730)	(196,740)	608,640	0
$ (140,154)	=$====0=	$ 562,848	$ 8,078,122

Barry E. Gaudette, CPA, P.C.
CERTIFIED PUBLIC ACCOUNTANT

731 South Garfield Avenue
Traverse City, Michigan 49686
Work (231) 946-8930
Cell (231) 409-7526
Fax (231) 946-1377

Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards*

Board of Housing Commissioners
Benton Harbor Housing Commission
Berrien County, Michigan

I have audited the financial statements of the business-type activities of Benton Harbor Housing Commission, Michigan, (Housing Commission) as of and for the year ended September 30, 2011, which comprise the Housing Commission's basic financial statements and have issued my report thereon dated January 11, 2012. I conducted my audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing my audit, I considered the Housing Commission's internal control over financial reporting as a basis for designing my auditing procedures for the purpose of expressing my opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Housing Commission's internal control over financial reporting. Accordingly, I do not express an opinion on the effectiveness of the Housing Commission's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Housing Commission's financial statements will not be prevented, or detected and corrected on a timely basis.

My consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. I did not identify any deficiencies in internal control over financial reporting that I consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Housing Commission's financial statements are free of material misstatements, I performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statements amounts. However, providing an opinion on compliance with those provisions was not an objective of my audit, and accordingly, I do not express such an opinion. The results of my tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards.*

This report is intended solely for the information and use of management, Board of Housing Commissioners, others within the entity, the City of Benton Harbor, the Michigan Department of Treasury, and federal awarding agencies and is not intended to be and should not be used by anyone other than these specified parties.

Berry Cjllad~, CPA, PC

January 11,2012

Barry E. Gaudette, CPA, P.e.
CERTIFIED PUBLIC ACCOUNTANT

731 South Garfield Avenue
Traverse City, Michigan 49686
Work (231) 946-8930
Cell (231) 409-7526
Fax (231) 946-1377

Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control over Compliance in Accordance with OMB Cir.cular A-133

Board of Housing Commissioners
Benton Harbor Housing Commission
Berrien County, Michigan

Compliance

I have audited the compliance of Benton Harbor Housing Commission's, Michigan, (the Housing Commission) with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 *Compliance Supplement* that are applicable to each of its major federal programs for the year ended September 30, 2011.. The Housing Commission's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts, and grants applicable to each of its major federal programs is the responsibility of the Housing Commission's management.. My responsibility is to express an opinion on the Housing Commission's compliance based on my audit..

I conducted my audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; and OMB Circular A-I33, *Audits of States, Local Governments, and Non-Profit Organizations.* Those standards and OMB Circular A-133 require that I plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Housing Commission's compliance with those requirements and performing such other procedures as I considered necessary in the circumstances. I believe that my audit provides a reasonable basis for my opinion. My audit does not provide a legal determination of the Housing Commission's compliance with those requirements.

In my opinion, the Housing Commission, complied, in all material respects, with the requirements referred to above that are applicable to its major federal programs for the year ended September 30,2011..

Barry E. Gaudette, CPA, P.e.
CERTIFIED PUBLIC ACCOUNTANT

731 South Garfield Avenue
Traverse City, Michigan 49686
Work (231) 946-8930
Cell (231) 409-7526
Fax (231) 946-1377

Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133

Board of Housing Commissioners
Benton Harbor Housing Commission
Berrien County, Michigan

Compliance

I have audited the compliance of Benton Harbor Housing Commission's, Michigan, (the Housing Commission) with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 *Compliance Supplement* that are applicable to each of its major federal programs for the year ended September 30, 2011.. The Housing Commission's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts, and grants applicable to each of its major federal programs is the responsibility of the Housing Commission's management.. My responsibility is to express an opinion on the Housing Commission's compliance based on my audit..

I conducted my audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller Gener-al of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations.* Those standards and OMB Circular A-133 require that I plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Housing Commission's compliance with those requirements and performing such other procedures as I considered necessary in the circumstances. I believe that my audit provides a reasonable basis for my opinion. My audit does not provide a legal determination of the Housing Commission's compliance with those requirements.

In my opinion, the Housing Commission, complied, in all material respects, with the requirements referred to above that are applicable to its major federal programs for the year ended September 30, 2011.

Benton Harbor Housing Commission
Status of Prior Audit Findings
September 30, 2011

There were no prior year audit findings.

Benton Harbor Housing Commission
Schedule of Findings and Questioned Costs
September 30, 2011

Section I - Summary of Auditors' Results

Financial Statements

Type of auditors' report issued:	unqualified
Internal control over financial reporting:	
Material weakness(es) identified?	no
Significant deficiency(ies) identified that are not considered to be material weakness(es)?	none reported
Noncompliance material to financial statements noted?	no

Federal Awards

Internal control over major programs:	
Material weakness(es) identified?	no
Significant deficiency(ies) identified that are not considered to be material weakness(es)?	none reported
Type of auditors' report issued on compliance for major programs:	unqualified
Any audit findings disclosed that are required to be reported in accordance With Section 51O(a) of *OMB Circular A-133?*	no

Identification of major programs;

CFDA Number	*Name a/Federal Program or Cluster*
14.850	Low Rent Public Housing
14.872	Public Housing Capital Fund Program

Dollar threshold used to distinguish between Type A and Type B programs:	$ 300,000
Auditee qualified as low-risk auditee?	Yes

Section IT- Findings Related to the Financial Statements

There were no findings which are required to be reported under *Government Auditing Standards.*

Section iII -Findings and Questioned Costs for Federal Awards

There were no findings or questioned costs.

PHA Board Resolution
Approving Operating Budget

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing -
Real Estate Assessment Center (PIH-REAC)

OMB No. 2577-0026
(exp.12/31/2012)

Public reporting burden for this collection of information is estimated to average **10 minutes per response**, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 6(c)(4) of the U.S. Housing Act of 1937. The information is the operating budget for the low-income public housing program and provides a summary of the proposed/budgeted receipts and expenditures, approval of budgeted receipts and expenditures, and justification of certain specified amounts. HUD reviews the information to determine if the operating plan adopted by the public housing agency (PHA) and the amounts are reasonable, and that the PHA is in compliance with procedures prescribed by HUD. Responses are required to obtain benefits. This information does not lend itself to confidentiality.

PHA Name: Benton Harbor Housing Commission PHA Code: MI010

PHA Fiscal Year Beginning: 2012 Board Resolution Number: #1207

Acting on behalf of the Board of Commissioners of the above-named PHA as its Chairperson, I make the following certifications and agreement to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

DATE

☒ Operating Budget approved by Board resolution on: 07/09/2012

☐ Operating Budget submitted to HUD, if applicable, on:

☐ Operating Budget revision approved by Board resolution on:

☐ Operating Budget revision submitted to HUD, if applicable, on:

I certify on behalf of the above-named PHA that:

1. All statutory and regulatory requirements have been met;
2. The PHA has sufficient operating reserves to meet the working capital needs of its developments;
3. Proposed budget expenditure are necessary in the efficient and economical operation of the housing for the purpose of serving low-income residents;
4. The budget indicates a source of funds adequate to cover all proposed expenditures;
5. The PHA will comply with the wage rate requirement under 24 CFR 968.110(c) and (f); and
6. The PHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i).

I hereby certify that all the information stated within, as well as any information provided in the accompaniment herewith, if applicable, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012.31, U.S.C. 3729 and 3802)

Print Board Chairperson's Name:	Signature:	Date:
Ralph Crenshaw	Ralph Crenshaw	07/16/2012

Previous editions are obsolete

form HUD-**52574** (08/2005)

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

Ora Greenwood
Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Vice Chairman

Erin Hudson
Commissioner

Resolution: #1207

RESOLUTION

Approval of the Benton Harbor Housing Commission 2013 Budget

July 9, 2012

The Benton Harbor Housing Commission has reviewed approved and will executed the 2013 Budget

Juanita Gibbs
BHHC, Executive Director

Ralph Crenshaw
Board Chairman

Commissioner	Vote	Date and Time Polled
Commissioner Crenshaw	*YES*	*July 9, 2012 2:07pm*
Commissioner Greenwood	____	_____
Commissioner Hardin	*YES*	*July 9, 2012 2:35pm*
Commissioner Hudson	____	_____
Commissioner Yarbrough	*YES*	*July 9, 2012 11:16am*

Benton Harbor Housing Commission
FYE 9/30/13

MaualInput
Formula
Do Not Change/No Info Necessary/Locked

Last updated 5/16/2012

Name of Projects	Project	Project	Tax Credit
Family/Elderly	3&5	7&9	5,6 & 7
Scatter Site			
AgelYear Built.			
Recently Rennovated			
Units			
Average Bedroom Size			
Occupancy			
# ofTurnovers			

NOTE: Due to rounding there might be $1 differences

REAC	HUD Fund #		Public Housing						
line No.	Acct.	Units	141 AMPI	135 AMP2	94 AMP3	370 PH Project Totals	201 Voucher	COCC	571 Consolidated
Revenues									
Operating Receipts									
	3100	Gross Potential Rents	296,100	174,960	-	471,060			471,060
	3105	Vacancy Loss	(8,883)	(5,249)	-	(14,132)			(14,132)
70300	3110/3420	Net Dwelling Rental	287,217	169,711	-	456,928	-		456,928
70400	3120/442	Excess Utilities	-	1,000	-	1,000	-		1,000
70400	3190	Nondwelling Rental	-	-	-	-	-		-
70500	Total	Rental Income	287,217	170,711	-	457,928	-		457,928
70600	3691	Operating Subsidy	383,048	535,350	267,361	1,185,759			1,185,759
70600	3691.1	Capital Funds - Soft Cost	26,413	26,414	-	52,827		-	52,827
70600		FSS Grant				-	-		-
70600		HUD Admin Fees				-	104,532		104,532
70710		Voucher/ Mainstream Management Fee				-		28,224	28,224
70710		Capital Grant Management Fee				-		52,827	52,827
70710		Management Fee AMPs				-		149,195	149,195
70720		Asset Management Fee				-		-	-
70730		Book Keeping Fee AMPs				-		24,095	24,095
70730		Book Keeping Fee Voucher				-		-	-
70740		Front line Service Fee				-			-
70750		Other Fees				-			-
70800		Other Govt., Grants - fill in type ex. ROSS, TANF				-			-
70800		Other Gov!., Grants - fill in type				-			-
71100	3610	Interest on General Fund Investments	200	200	-	400	10	-	410
71400		Fraud Recovery				-			-
71500	3690	Other Income	15,100	20,000	-	35,100	4,000	14,400	53,500
71600		Gain or Loss on Sale of Capital Assets				-			-
72000		Invesl ment Income Resticted				-			-
	Total	Operating Income	711,9781	752,675 1	267,361 1	1,732.0141	108,542 1	268,741	2,109,297 1
Operating Expenditures - Administration:									
91100	4110	Administrative Salaries (Direct)	45,027	52,762	-	97,789	59,110	144,534	301,432
91100	4110.1	Administrative Salaries (Front-line)	-	-	-	-	-		-
91100		Administriative Salaries (CFP)				-			-
91200	4171	Auditing Fees	4,000	4,000	-	8,000	2,500	1,000	11,500
91300		Voucher Management Fee				-	28,224		28,224
91300		Capital Grant Management Fee	26,413	26,414		52,827			52,827

*Please note that numbers/amounts may differ slightly due to rounding/formulas.

REAC	HUD Fund #		Public Housing						
line No.	Acct.	Units	141 AMP1	135 AMP2	94 AMP3	370 PH Project Totals	201 Voucher	COCC	571 Consolidated
Revenues									
91300		Mgmt Fee AMPs	76,219	72,976	-	149,195			149,195
91310		Book Keeping Fee	12,309	11,786	-	24,095	-		24,095
91400	4120	Advertising & Marketing	200	200	-	400	-	100	500
91500	4182	Employee Benefit Contributions (Direct)	16,191	17,170	-	33,361	13,517	33,261	80,139
91500	4182.1	Employee Benefit Contributions (Front-line)	-	-	-	-	-		-
91600	4160	Office Expenses	15,500	23,500	-	39,000	7,900	20,950	67,850
91700	4130	Legal Expense	100	3,000	-	3,100	-	1,000	4,100
91800	4150	Travel	-	-	-	-	-	-	-
91900	4140	Staff Training	-	-	-	-	-	-	-
91900	4170	Accounting Fees	-	-	-	-	6,100	14,000	20,100
91900	4180	Office Rent	-	-	-	-	3,600	-	3,600
91900	4190	Other Sundry	5,500	5,500	-	11,000	2,200	6,000	19,200
Total		Administrative Expense	201,460	217,307	-	418,767	123,151	220,844	762,762
92000		Asset Management Fee	-	-	-	-			-
Tenant Services:									
92100	4210	Salaries	-	-	-	-	-		-
92200	4220	Recreation, Publications and Other Services	-	-	-	-	-		-
92300	4282	Employee Benefit Contributions	-	-	-	-	-		-
92400	4230	Contract Costs, Training and Other				-			-
Total		Tenant Services Expense	-	-	-	-	-	-	-
Utilities:									
93100	4310	Water	33,350	50,025	-	83,375	-	-	83,375
93200	4320	Electricity	67,850	14,950	-	82,800	-	24,150	106,950
93300	4330	Gas	44,850	11,500	-	56,350	-	6,670	63,020
93400	4340	Fuel	-	-	-	-	-	-	-
93600	4360	Sewer	26,450	40,250	-	66,700	-	-	66,700
93700	4390	Other Utilities Expense	-	-	-	-	-	-	-
Total		Utilities Expense	172,500	116,725	-	289,225	-	30,820	320,045
Ordinary Maintenance and Operations:									
94100	4410	Labor (Direct)	55,387	52,707	-	108,094	-	30,460	138,553
94200	4420	Materials	40,000	40,500	-	80,500		2,800	83,300
94300-010	4431	Garbage & Trash Removal	16,200	48,600	-	64,800	-	3,105	67,905
94300-020	4430.01	Heating & Cooling	5,400	4,320	-	9,720	-	-	9,720
94300-030	4430.02	Snow Removal	1,350	2,700	-	4,050	-	1,350	5,400
94300-040	4430.03	Elevator Maintenance	32,000	-	-	32,000	-	-	32,000
94300-050	4430.04	Landscaping & Grounds	1,350	2,025	-	3,375	-	945	4,320
94300-060	4430.05	Unit Turnaround	20,790	27,000	-	47,790	-	-	47,790
94300-070	4430.06	Electrical	675	1,350	-	2,025	-	1,350	3,375
94300-080	4430.07	Plumbing	13,500	1,350	-	14,850	-	3,375	18,225
94300-090	4430.08	Extermination	29,970	22,815	-	52,785	-	-	52,785
94300-100	4430.09	Janitorial	-	-	-	-	-	-	-
94300-110	4430.10	Routine Contract Costs	6,210	2,160	-	8,370	-	2,565	10,935
94300-120	4430.11	Miscellaneous Contracts	13,500	18,900	-	32,400	-	1,350	33,750
94500	4433	Employee Benefit Contributions-Maint	20,661	20,337	-	40,999	-	10,304	51,303
94000	Total	Ordinary Maintenance and Operating Expense	256,993	244,765	-	501,758	-	57,604	559,361
Protective Services:									
95100	4460	Labor				-			-
95200	4480	Contract Costs	-			-			-
95300	4470	Materials				-			-

~Please note that numbers/amounts may differ slightly due to rounding/formulas.

REAC	HUD Fund #		Public Housing						
Line No.	Acct.	Units	141 AMP1	135 AMP 2	94 AMP3	370 PH Project Totals	201 Voucher	COCC	571 Consolidated
Revenues									
95500	4482	Employee Benefits				-			-
95000	Total	Protective Services Expense	-	-	-	-	-	-	-
Insurance Expense:									
96110	4510.02	Property Insurance	24,600	32,315	-	56,915	-	4,600	61,515
96120	4510.03	Liability Insurance	5,900	6,400	-	12,300	151	-	12,451
96130	4510.01	Workers' Comp Insurance	3,950	3,950	-	7,900	2,634	6,585	17,119
96140	4510.00	Other Insurance	2,766	2,766	-	5,531	2,766	5,300	13,597
96100	Total	**Insurance**	37,216	45,431	-	82,646	5,551	16,485	104,682
General Expense									
96200	4590	Other General Expenses	-	-	264,047	264,047	4,600		268,647
96210	4560	Compensated Absences	-	-		-	-	-	-
96300	4520	Payments in Lieu of Taxes	11,472	5,399		16,870			16,870
96400	4570	Collection Losses	-	-	-	-			-
96800	4530	Terminal Leave Payments				-			-
9600	Total	General Expense	11,472	5,399	264,047	280,917	4,600	-	285,517
96710		Interest expense - Mort or Bonds	-	-		-		-	-
96720		Interest expense - Notes	-	-		-		-	-
96730		Amortization of Bond Issue cost	-	-	-	-	-	-	-
96700	Total	Total Interest Expense and Amortization Cost	-	-	-	-	-	-	-
96900	Total	Operating Expenditures	679,640	629,626	264,047	1,573,313	133,301	325,753	2,032,367
Nonoperating Expenditures:									
97100	4610	Extraordinary Maintenance	-	-	-	-	-	-	-
97200	4620	Casualty Losses	-	-		-	-	-	-
		Debt Payments - Principal				-			-
		Debt Payments - To Reserve				-			-
		Debt Payments - Overage				-			-
		Debt Service - Capital Funds				-			-
		Capital Expenditures - Operations	-	-	-	-		-	-
	Total	Nonoperating Expenditures	-	-	-	-	-	-	-
	Total	Total Expenditures	679,640	629,626	264,047	1,573,313	133,301	325,753	2,032,367
		Allocated Overhead expenses	-	-	-	-	-	-	-
		Cash Flow from Operations	32,338	123,049	3,314	158,701	(24,759)	(57,012)	76,930
1104	6010	Prior Period Adjustments				-1			-
		Net Income (Loss) after Prior Period Adjustments	32,338	123,049	3,3141	158,701 1	(24,759)	(57,012)	76,930
		Subtract: Depreciation	261,000	226,000		487,000	2,346	18,000	507,346
		Add: Capital Expenditures - Operations	-	-	-	-	-	-	-
		Add: Debt Principal Payments	-	-	-	-	-	-	-
		Net Income (Loss) to Balance Sheet	(228,662)1	(102,951)1	3,3141	(328,299)1	(27,105)1	(75,012)1	(430,416)1
				Check					76,930

Housing Choice Other Programs - HAP Balance

Beginning Equity

Estimated for FYE XYJXXIXX

Actual for FYE Xx/Xx/XX

HAP

§

"Please note that numbers/amounts may differ slightly due to roundinglformulas.

REAC	HUD		Public Housing						
	Fund #								
Line	Acct.	Units	141	135	94	370	201		571
No.			AMP1	AMP2	AMP3	PH Project Totals	Voucher	COCC	Consolidated
Revenues									
		HAP Balance at End of Current Budget Year					a		
		HAP Revenue for Budgeted Year							
		Fraud Recovery							
		Interest Income							
		Total Revenue					a		
		HAP Expenses for Budgeted Year							
		Total Expenses					a		
		Ending Equity					a		

"Please note that numbers/amounts may differ slighUy due to roundinglformulas.

Benton Harbor Housing Commission
FYE 9/30/13
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Manual Input
Formula

of Months 12

REAC Line No.	HUD Acct. No.	Units Description	PUBLIC HOUSING 1692 AMP1	1620 AMP2	1128 AMP3	4440 PH Project Totals
Revenues						
Operating Receipts						
	3100	Gross Potential Rents	175.00	108.00	0.00	106.09
	3105	Vacancy Loss	-5.25	-3.24	0.00	-3.18
70300	*3110/3420*	**Net Dwelling Rental**	169.75	104.76	0.00	102.91
70400	*3120/442*	Excess Utilities	0.00	0.62	0.00	0.23
70400	3190	Nondwelling Rental	0.00	0.00	0.00	0.00
70500	**Total**	Rental Income	169.75	105.38	0.00	103.14
70600	3691	Operating Subsidy	226.39	330.46	237.02	267.06
70600	3691.1	Capital Funds - Soft Cost	15.61	16.30	0.00	11.90
70600		FSS Grant	0.00	0.00	0.00	0.00
70600		HUD Admin Fees	0.00	0.00	0.00	0.00
70800		Other Govt.. Grants - fill in type ex. ROSS, TANF	0.00	0.00	0.00	0.00
70800		Other Govt.. Grants - fill in type	0.00	0.00	0.00	0.00
71100	3610	Interest on General Fund Investments	0.12	0.12	0.00	0.09
71400		Fraud Recovery	0.00	0.00	0.00	0.00
71500	3690	Other Income	8.92	12.35	0.00	7.91
71600		Gain or Loss on Sale of Capital Assets	0.00	0.00	0.00	0.00
72000		Investment Income Resticted	0.00	0.00	0.00	0.00
	Total	**Operating Income**	!--- 4_20_.7_91	46_4_.6_11	23_7_.0_21	3_90_.0_91
Operating Expenditures - Administration:						
91100	4110	Administrative Salaries (Direct)	26.61	32.57	0.00	22.02
91100	4110.1	Administrative Salaries (Front-Line)	0.00	0.00	0.00	0.00
91100		Administriative Salaries (CFP)	0.00	0.00	0.00	0.00
91200	4171	Auditing Fees	2.36	2.47	0.00	1.80
		Voucher Management Fee	0.00	0.00	0.00	0.00
		Capital Grant Management Fee	15.61	16.30	0.00	11.90

Benton Harbor Housing Commission
FYE 9/30/13
PUMs

Manual Input
Formula

of Months 12

REAC	HUD			PUBLIC HOUSING			
Line	Acct..	Units		1692	1620	1128	4440
No.	No.	Description		AMP1	AMP2	AMP3	PH Project Totals
Revenues							
		Mgmt Fee		45.05	45.05	0.00	33.60
91310		Book Keeping Fee		7.28	7.28	0.00	5.43
91400	4120	Advertising & Marketing		0.12	0.12	0.00	0.09
91500	4182	Employee Benefit Contributions (Direct)		9.57	10.60	0.00	7.51
91500	4182.1	Employee Benefit Contributions (Front-Line)		0.00	0.00	0.00	0.00
91600	4160	Office Expenses		9.16	14.51	0.00	8.78
91700	4130	Legal Expense		0.06	1.85	0.00	0.70
91800	4150	Travel		0.00	0.00	0.00	0.00
	4140	Staff Training		0.00	0.00	0.00	0.00
	4170	Accounting Fees		0.00	0.00	0.00	0.00
	4180	Office Rent		0.00	0.00	0.00	0.00
	4190	Other Sundry		3.25	3.40	0.00	2.48
Total		Administrative Expense		119.07	134.14	0.00	94.32
92000		Asset Management Fee		0.001	0.001	0.001	0.001
Tenant Services:							
92100	4210	Salaries		0.00	0.00	0.00	0.00
92200	4220	Recreation, Publications and Other Services		0.00	0.00	0.00	0.00
92300	4282	Employee Benefit Contributions		0.00	0.00	0.00	0.00
92400	4230	Contract Costs, Training and Other		0.00	0.00	0.00	0.00
Total		Tenant Services Expense		0.00	0.00	0.00	0.00
Utilities:							
93100	4310	Water		19.71	30.88	0.00	18.78
93200	4320	Electricity		40.10	9.23	0.00	18.65
93300	4330	Gas		26.51	7.10	0.00	12.69
93400	4340	Fuel		0.00	0.00	0.00	0.00
93600	4360	Sewer		15.63	24.85	0.00	15.02

Benton Harbor Housing Commission
FYE *9/30/13*
PUMs

Manual Input
Formula

of Months 12

REAC Line No.	HUD Aeet., No.	Units Description	PUBLIC HOUSING 1692 AMP1	1620 AMP2	1128 AMP3	4440 PH Project Totals
Revenues						
93700	4390	Other Utilities Expense	0.00	0.00	0.00	0.00
Total		Utilities Expense	101.95	72.05	0.00	65.14
Ordinary Maintenance and Operations:						
94100	4410	Labor (Direct)	32.73	32.54	0.00	24.35
94200	4420	Materials	23.64	25.00	0.00	18.13
94300-0	4431	Garbage & Trash Removal	9.57	30.00	0.00	14.59
94300-0:	4430.01	Heating & Cooling	3.19	2.67	0.00	2.19
94300-0:	4430.02	Snow Removal	0.80	1.67	0.00	0.91
94300-0	4430.03	Elevator Maintenance	18.91	0.00	0.00	7.21
94300-0!	4430.04	Landscaping & Grounds	0.80	1.25	0.00	0.76
94300-01	4430.05	Unit Turnaround	12.29	16.67	0.00	10.76
94300-0'	4430.06	Electrical	DAD	0.83	0.00	OA6
94300-01	4430.07	Plumbing	7.98	0.83	0.00	3.34
94300-0!	4430.08	Extermination	17.71	14.08	0.00	11.89
94300-11	4430.09	Janitorial	0.00	0.00	0.00	0.00
94300-1'	4430.10	Routine Contract Costs	3.67	1.33	0.00	1.89
94300-1:	4430.11	Miscellaneous Contracts	7.98	11.67	0.00	7.30
94500	4433	Employee Benefit Contributions-Maint	12.21	12.55	0.00	9.23
94000 Total		**Ordinary Maintenance and Operating Expense**	151.89	151.09	0.00	113.01
Protective Services:						
95100	4460	Labor	0.00	0.00	0.00	0.00
95200	4480	Contract Costs	0.00	0.00	0.00	0.00
95300	4470	Materials	0.00	0.00	0.00	0.00
95500	4482	Employee Benefits	0.00	0.00	0.00	0.00
95000 Total		**Protective Services Expense**	0.00	0.00	0.00	0.00
Insurance Expense:						
96110	4510.02	Property Insurance	1;...;4;...;5....;41...;19-95=-11		0~;..00=41	..;;12:..:..~821
96120	4510.03	Liability Insurance	3~;..95.:...J....		0~;..00.:...J....	..:2:..;..J77

Benton Harbor Housing Commission
FYE 9/30/13
PUMs

Manual Input
Formula

of Months 12

REAC line No.	HUD Acct., No.		Units Description	PUBLIC HOUSING 1692 AMP1	1620 AMP2	1128 AMP3	4440 PH Project Totals
Revenues							
96130	4510.01		Workers' Camp Insurance	2.33	2.44	0.00	1.78
96140	4510.00		Other Insurance	1.63	1.71	0.00	1.25
96100	**Total**		**Insurance**	21.99	28.04	0.00	18.61
General	**Expense**						
96200		4590	Other General Expenses	0.00	0.00	234.08	59.47
96210		4560	Compensated Absences	0.00	0.00	0.00	0.00
96300		4520	Payments in lieu of Taxes	6.78	3.33	0.00	3.80
96400		4570	Collection Losses	0.00	0.00	0.00	0.00
96800		4530	Terminal Leave Payments	0.00	0.00	0.00	0.00
9600	**Total**		**General Expense**	6.78	3.33	234.08	63.27
96710			Interest expense - Mort or Bonds	0.00	0.00	0.00	0.00
96720			Interest expense - Notes	0.00	0.00	0.00	0.00
96730			Amortization of Bond Issue cost	0.00	0.00	0.00	0.00
96700	**Total**		Total Interest **Expense and Amortization Cost**	0.00	0.00	0.00	0.00
96900	**Total**		**Operating Expenditures**	401.68	388.66	234.08	354.35
Nonoperating	**Expenditures:**						
97100		4610	Extraordinary Maintenance	0.00	0.00	0.00	0.00
97200		4620	Casualty Losses	0.00	0.00	0.00	0.00
			Debt Payments - Interest/Principal	0.00	0.00	0.00	0.00

Benton Harbor Housing Commission
FYE *9/30/13*

VACANCY LOSS & GROSS POTENTIAL INCOME

# of Units	141	135	94	
Description	Public Housing			TOTAL PUBLIC HOUSING
	AMP1	AMP2	AMP3	
Budgeting				
Average Rental Income per Month	175.00	108.00	-	283.00
Units	1,692.00	1,620.00	1,128.00	4,440.00
Gross Potential Revenue	296,100.00	174,960.00	-	471,060.00
Occupancy Rate	97.00%	97.00%		
Projected Average Monthly Dwelling Rental	287,217.00	169,711.20	-	456,928.20

Benton Harbor Housing Commission
FYE *9/30/13*

Funding allocation

# of Units	141	135	94	370
Description	Public Housing			**TOTAL PUBLIC HOUSING**
	AMP1	**AMP2**	**AMP3**	
Budgeting				
Operating Subsidy	383,048.00	535,350.00	267,361.00	[illegible]
Prorated Approved Subsidy percentage	100.00%	100.00%	100.00%	300.00%
Net Subsidy	383,048.00	535,350.00	267,361.00	[illegible]

Benton Harbor Housing Commission
FYE *9/30/13*
Excess Utilities

Descripition	AMP1	AMP2	AMP3	Voucher	cacc	Total	
Tenant Charges		1,000.00				**1,000.00**	
			-		-	**-**	
	-	-			-	**-**	
					-	**-**	
						-	
						-	
						-	
						-	
						-	
						-	
Total	-	1,000.00	-	-	-	**1,000.00**	1,000.00

Benton Harbor Housing Commission
FYE *9/30/13*
Other Income

Description	AMP1	AMP2	AMP3	Voucher	COCC	Total	
Tenant Charges	15,000.00	20,000.00	-			**35,000.00**	
Laundry Commissions	-	-	-			-	
Office Rent					3,600.00	**3,600.00**	
Other Income	100.00					**100.00**	
Port Admin Fees				4,000.00		**4,000.00**	
Community Room					9,000.00	**9,000.00**	
Endowment Fund					1,800.00	**1,800.00**	
						-	
						-	
						-	
						-	check
Total	15,100.00	20,000.00	-	4,000.00	14,400.00	**53,500.00**	53,500.00

Description	AMP1	AMP2	AMP 3	Voucher	COCC	Total	
Nondwelling rent					-	-	
						-	
						-	
						-	
						-	
						-	
						-	check
Total	-	-	-	-	-	-	-

Benton Harbor Housing Commission
FYE 9/30/13

Administrative Direct . Labor & Benefits

Labor

emetevee	AMP1	AMP 2	AMP3	Voucher	COCC	Total	
prcoerty Manaqer AMP 1-??	27,300.00				-	27300.00	
Property Manager AMP z-tavena White		35,035.00	-		-	35035.00	
InspectorrInventory Clerk-Willie Mae Reed	17,726.80	17,726.80				35453.60	
HCV Assistant-Deborah Reed				19,110.00	-	19110.00	
HCV Coordinator???				40,000.00		40000.00	
Name				-		-	
Name				-		-	
Name					-	-	
Name					-	-	
Name					-	-	
Name					-	-	
Name				-		-	
Name				-		-	
Name				-		-	
Name				-		-	
Name							
Name				-		-	
Name				-		-	check
Total	45026.80	52,761.80	-	59110.00	-	156,898.60	156,898.60

Benefits

amerevee	AMP1	AMP 2	AMP3	Voucher	COCC	Total	
Property Manaqer AMP 1-11	10,448.45				-	10448.45	
Property Manaqer AMP 2-Lavetta White		11,426.93	-		-	11426.93	
InspectorrInventory Clerk-Willie Mae Reed	5,742.94	5,742.94				11,485.88	
HCV ASSistant-Deborah Reed				1,461.92		1461.92	
HCV Coordinator???				12,055.00		12055.00	
Name						-	
Name						-	
Name							
Name							
Name							
Name							
Name						-	
Name						-	
Name							
Name							
Name							
Name							
Name						-	check
Total	16191.39	17,169.87	-	13,516.92	-	46878.17	46,878.17

based on 35 hr 5.00%

	Annual Expense	Salary	Benefits: Retirement	Health Ins	FICA	Dental	Life			Total Benefits
Property Manager AMP 1-??	37,748.45	27,300.00	1,365.00	6,000.00	2,088.45	352.00	643.00		-	10,448.45
Property Manager AMP z-Lavetta White	46,461.93	35,035.00	1,751.75	6,000.00	2,680.18	352.00	643.00		-	11,426.93
InspectorrInventory Clerk-Willie Mae Reed	46,939.48	35,453.60	1,772.68	6,000.00	2,712.20	352.00	649.00			11,485.88
HCV Assistant-Deborah Reed	20,571.92	19,110.00			1,461.92	-	-			1,461.92
HCV Coordinator???	52,055.00	40,000.00	2,000.00	6,000.00	3,060.00	352.00	643.00	-		12,055.00
Name	-				-	-	-	-		-
Name	-				-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
Name	-	-	-	-	-	-	-	-		-
	203,776.77	156,898.60	6,889.43	24,000.00	12,002.74	1,408.00	2,578.00	-	-	46,878.17

Benton Harbor Housing Commission
FYE 9/30/13

Central Office Cost Center

Accounting Fee	$	7.50
Asset Mgmt Fee	$	-

Budgeting

	AMP1	AMP2	AMP3	Total	Voucher
Estimated Units Occupied per Month	136.77	130.95	-	267.72	196.00
Management Fee	46.44	46.44	46.44	139.32	12.00
Management Fee-Budgeted	76,219.19	72,975.82	-	149,195.00	28,224.00
Acctg Fee-Budgeted	12,309.30	11,785.50	-	24,094.80	-
Asset Mgt Fee-Budgeted	-	-	-	-	

Benton Harbor Housing Commission — Central Office Cost Center

5%

Salary & Benefits			Salary	Benefits: Retirement	Health Ins	FICA	Dental	Life		Total Benefits
Executive Director	Juanita	Gibbs	80,958.45	65,300.00	3,265.00	6,000.00	4,995.45	352.00	1,046.00	- 15.658.45
CFP Coordinator/Main	Sheila	Hill	61,455.75	48,330.00	2,416.50	6,000.00	3,697.25	352.00	660.00	- 13.125.75
Admin/Human Resources	So'Cy	Ward	35,379.91	30,903.60	1,545.18	-	2,364.13		567.00	- 4,476.31
			-				-			-
			-				-			-
			-				-			-
			-				-			-
			-				-			-
			-				-			-
			-				-			-
			177.794.10	144.533.60						33.260.50

Benton Harbor Housing Commission
FYE 9/30/13
Administration Expense Other Than Salary

Description	AMP1	AMP 2	AMP 3	Voucher	COCC	Total	
Advertising & Marketing	200.00	200.00	-	-	100.00	500.00	
Legal	100.00	3,000.00			1,000.00	4,100.00	
Training/Convention"	-	-	-	-	-	-	
Travel"	-	-	-	-	-	-	
Accounting				6,100.00	14,000.00	20,100.00	
Auditing	4,000.00	4,000.00	-	2,500.00	1,000.00	11,500.00	
Office Rent	-			3,600.00		3,600.00	
Sundry:							
Consulting	-	-		-	-	-	
Dues and Subscriptions" *	-	-	-	-	-	-	
Collection Agency	-	-	-			-	
Office Uniforms	-	-	-	-	-	-	
Other Sundry	5,500.00	5,500.00	-	2,200.00	6,000.00	19,200.00	
						-	
						-	
Total Sundry	5,500.00	5,500.00	-	2,200.00	6,000.00	19,200.00	
Office Expenses:							
Admin Service Contracts"	-	-	-	-	8,250.00	8,250.00	
Printing and Postage	3,700.00	3,900.00			500.00	8,100.00	
Forms, Stationary, Office Supplies	5,800.00	5,000.00	-	5,500.00	2,600.00	18,900.00	
Computer Software					2,600.00	2,600.00	
Copier						-	
Telephone	6,000.00	14,600.00	-	2,400.00	7,000.00	30,000.00	
						-	
						-	
						-	
Total Office Expenses	15,500.00	23,500.00	-	7,900.00	20,950.00	67,850.00	check
Total Administration	25,300.00	36,200.00	-	22,300.00	43,050.00	126,850.00	123,250.00

Note: - = See detail below

Training/Convention

	-	-	-	-	-	
Total	-	-	-	-	-	-

Travel/Meetings

	-	-	-	-	-	
	-			-		
Total	-	-	-	-	-	-

Admin Service Contracts

Adams Remco	-	-	-	-	8,250.00	
Total	-	-	-	-	8,250.00	8,250.00

Membership, Dues, & Fees

	-	-	-	-	-	
Total	-	-	-	-	-	-

Benton Harbor Housing Commission
FYE *9/30/13*
Utilities

1.15 15%

Description	AMP1	AMP2	AMP3	Voucher	cacc	Total	
Water	33,350.00	50,025.00	-		-	83,375.00	
Electricity	67,850.00	14,950.00	-		24,150.00	106,950.00	
Gas	44,850.00	11,500.00	-		6,670.00	63,020.00	
Sewer	26,450.00	40,250.00	-			66,700.00	
Fuel						-	
Other Utilities:							
						-	
						-	
						-	
Total Other Util	-	-	-	-	-	-	check
Total	**172,500.00**	**116,725.00**	**-**	**-**	**30,820.00**	**320,045.00**	**320,045.00**

Benton Harbor Housing Commission
FYE 9/30/13

Maintenance - Labor & Benefits

Labor

Employee	AMP1	AMP 2	AMP3	Voucher	COCC	Total	
AMP I-A.. Sotkes	29,033.16					29033.16	
AMP I-F. Thomas	26,353.60					26353.60	
AMP 2-1s.Green		26,353.60				26353.60	
AMP 2-E. Hines		26,353.60				26353.60	
CaCC-Kenneth Haley	-				27,859.52	27859.52	
CaCC-Konika Marshall					2,600.00	2600.00	
Name			-			-	
Name	-					-	
Name	-					-	
Name			-			-	
Name			-			-	
Name		-				-	
Name		-				-	
Name	-					-	
Name	-					-	
Name						-	check
Total	55386.76	52707.20	-	-	30459.52	**138,553.48**	138,553.48

Benefits

Employee	AMP1	AMP2	AMP3	Voucher	COCC	Total	
AMP I-A.. Sotkes	10,529.69	-				10529.69	
AMP I-F. Thomas	10,131.73					10131.73	
AMP 2-K. Green		10,168.73				10168.73	
AMP 2-E. Hines		10,168.73				10168.73	
COCC-Xenoem Haley		-			10,105.23	10105.23	
COCC-Xcoua Marshall			-		198.90	198.90	
Name			-			-	
Name	-					-	
Name	-					-	
Name			-			-	
Name			-			-	
Name		-				-	
Name		-				-	
Name	-					-	
Name	-					-	
Name						-	check
Total	20661.43	20337.46	-	-	10304.13	51,303.02	51,303.02
			SP		check	51,303.02	

Haley and Stokes based on 37 hours/Marshall 5

	Expense	Salary	Benefits: Retirement	Health Ins	FICA	Dental	Life	Total SUTA	Total Benefits
AMP I-A.. Satkes	39,562.85	29,033.16	1,451.66	6,000.00	2,221.04	352.00	505.00	-	[redacted]
AMP I-F. Thomas	36,485.33	26,353.60	1,317.68	6,000.00	2,016.05	352.00	446.00	-	[redacted]
AMP 2-1s.Green	36,522.33	26,353.60	1,317.68	6,000.00	2,016.05	352.00	483.00	-	[redacted]
AMP 2-E. Hines	36,522.33	26,353.60	1,317.68	6,000.00	2,016.05	352.00	483.00	-	[redacted]
CaCC-Kenneth Haley	37,964.75	27,859.52	1,392.98	6,000.00	2,131.25		581.00	-	[redacted]
CaCC-Konika Marshall	2,798.90	2,600.00	-	-	198.90			-	198.90
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Name	-	-	-	-	-			-	-
Total	189,856.50	...	III'--E6i:',7~9i77:e.6(f7:33c0i:<.olCoiOo:O,ob		10,599.34	1,408.00	2,498.00	-	#######
	189,856.50	check							

Benton Harbor Housing Commission
FYE 9/30/13
Maintenance Contract Cost

Description	AMP 1	AMP 2	AMP 3	Vouc her	cacc	Tota l	
Garbage	16,200.00	48,600.00	-		3,105.00	67,905.00	
Heating & Cooling	5,400.00	4,320.00	-		-	9,720.00	
Snow Removal	1,350.00	2,700.00			1,350.00	5,400.00	
Elevator Maintenance	32,000.00		-			32,000.00	
Landscape & Grounds	1,350.00	2,025.00			945.00	4,320.00	
Unit Turnaround	20,790.00	27,000.00				47,790.00	
Electrical	675.00	1,350.00	-		1,350.00	3,375.00	
Plumbing	13,500.00	1,350.00	-		3,375.00	18,225.00	
Extermination	29,970.00	22,815.00	-			52,785.00	
Janitorial	-				-	-	
Routine Contract Costs	6,210.00	2,160.00	-	-	2,565.00	10,935.00	
Miscellaneous	13,500.00	18,900.00	-	-	1,350.00	33,750.00	
						-	
						-	
						-	
						-	
						-	
						-	
						-	
						-	
						-	check
Total	###1: ##A1fk	###k'#£J0#h'0	-	-	14,040.00	286,205.00	nIlUff#### : :

Routine Contract Costs:

Fire, Alarm and Sec Sys	6,210.00	2,160.00			2,565.00		
Total	6,210.00	2,160.00	-	-	2,565.00	$	10,935.00

Miscellaneous

Miscellaneous	13,500.00	18,900.00	-	-	1,350.00		
	-						
Total	13,500.00	18,900.00	-	-	1,350.00	$	33,750.00

Benton Harbor Housing Commission
FYE *9/30/13*
Insurance

Description	AMP1	AMP2	AMP3	Voucher	CcCC	Total	
Property Insurance	24,600.00	32,315.00	-	-	4,600.00	**61,515.00**	
Liability Insurance	5,900.00	6,400.00		151.00		**12,451.00**	
Workers Camp	3,950.00	3,950.00	-	2,634.00	6,585.00	**17,119.00**	
Other Insurance	2,765.50	2,765.50	-	2,765.50	5,300.00	**13,596.50**	check
Total	37,215.50	45,430.50	-	5,550.50	16,485.00	**104,681.50**	104,681.50

Other Insurance							
Auto	2,765.50	2,765.50	-	2,765.50	-		
0&0 Ins					4,800.00		
Fidelity bond					500.00		
Total	2,765.50	2,765.50	-	2,765.50	5,300.00	$	**13,596.50**



ADMISSIONS AND CONTINUED OCCUPANCY POLICY

FOR THE

PUBLIC HOUSING PROGRAM
Of The
Benton Harbor Housing Commission
721 Nate Wells Sr. Drive
Benton Harbor, MI 49022
Phone: 269-927-3546
Fax: 269-927-6112
TDD: 269-927-6511

Buss Complex
925 Buss Street
Benton Harbor, MI 49022
Phone: 269-927-3544
Fax: 269-927-5884

Harbor Towers
250 E. Wall Street
Benton Harbor, MI 49022
Phone: 269-927-3529
Fax: 269-927-5887

Agency Web Site / www.BHHCommission.org

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Chapter 1
OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION 1-1

PART I: THE PHA

I.A. OVERVIEW 1-1
I.B. ORGANIZATION AND STRUCTURE OF THE PHA 1-2
I.C. PHA MISSION 1-3
I.D. THE PHA'S COMMITMENT TO ETHICS AND SERVICE 1-4

PART II: THE PUBLIC HOUSING PROGRAM

II.A. OVERVIEW AND HISTORY OF THE PROGRAM 1-5
II.B. PUBLIC HOUSING PROGRAM BASICS 1-6
II.C. PUBLIC HOUSING PARTNERSHIPS 1-6
II.D. APPLICABLE REGULATIONS 1-10

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

III.A. OVERVIEW AND PURPOSE OF THE POLICY 1-11
III.B. CONTENTS OF THE POLICY 1-11
III.C. UPDATING AND REVISING THE POLICY 1-12

Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION 2-1

PART I: NONDISCRIMINATION

I.A. OVERVIEW 2-2
I.B. NONDISCRIMINATION 2-3

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

II.A. OVERVIEW 2-5
II.B. DEFINITION OF REASONABLE ACCOMMODATION 2-6
II.C. REQUEST FOR AN ACCOMMODATION 2-7
II.D. VERIFICATION OF DISABILITY 2-8
II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION 2-9
II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS 2-10
II.G. PHYSICAL ACCESSIBILITY 2-11
II.H. DENIAL OR TERMINATION OF ASSISTANCE 2-12

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

III.A. OVERVIEW 2-13
III.B. ORAL INTERPRETATION 2-14
III.C. WRITTEN TRANSLATION 2-14
III.D. IMPLEMENTATION PLAN 2-15

EXHIBITS

2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS 2-16

Chapter 3
ELIGIBILITY

INTRODUCTION 3-1

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

I.A. OVERVIEW 3-2
I.B. FAMILY AND HOUSEHOLD 3-2
I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY 3-3
I.D. HEAD OF HOUSEHOLD 3-4
I.E. SPOUSE, COHEAD, AND OTHER ADULT 3-4
I.F. DEPENDENT 3-5
I.G. FULL-TIME STUDENT 3-5
I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY 3-7
I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY 3-7
I.J. GUESTS 3-8
I.K. FOSTER CHILDREN AND FOSTER ADULTS 3-9
I.L. ABSENT FAMILY MEMBERS 3-10
I.M. LIVE-IN AIDE 3-12

PART II: BASIC ELIGIBILITY CRITERIA

II.A. INCOME ELIGIBILITY AND TARGETING 3-13
II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS 3-15
II.C. SOCIAL SECURITY NUMBERS 3-17
II.D. FAMILY CONSENT TO RELEASE OF INFORMATION 3-18

PART III: DENIAL OF ADMISSION

III.A. OVERVIEW 3-19
III.B. REQUIRED DENIAL OF ADMISSION 3-19
III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION 3-21
III.D. SCREENING 3-23
III.E. CRITERIA FOR DECIDING TO DENY ADMISSION 3-28
III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING 3-30
III.G. NOTICE OF ELIGIBILITY OR DENIAL 3-34

EXHIBITS

3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES 3-35

Chapter 4
APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION 4-1

PART I: THE APPLICATION PROCESS

I.A. OVERVIEW 4-2
I.B. APPLYING FOR ASSISTANCE 4-2
I.C. ACCESSIBILITY OF THE APPLICATION PROCESS 4-3
I.D. PLACEMENT ON THE WAITING LIST 4-4

PART II: MANAGING THE WAITING LIST

II.A. OVERVIEW 4-5
II.B. ORGANIZATION OF THE WAITING LIST 4-5
II.C. OPENING AND CLOSING THE WAITING LIST 4-7
II.D. FAMILY OUTREACH 4-8
II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES 4-9
II.F. UPDATING THE WAITING LIST 4-10

PART III: TENANT SELECTION

III.A. OVERVIEW 4-12
III.B. SELECTION METHOD 4-13
III.C. NOTIFICATION OF SELECTION 4-20
III.D. THE APPLICATION INTERVIEW 4-21
III.E. FINAL ELIGIBILITY DETERMINATION 4-23

Chapter 5
OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION 5-1

PART I: OCCUPANCY STANDARDS

I.A. OVERVIEW 5-1
I.B. DETERMINING UNIT SIZE 5-2
I.C. EXCEPTIONS TO OCCUPANCY STANDARDS 5-3

PART II: UNIT OFFERS

II.A. OVERVIEW 5-4
II.B. NUMBER OF OFFERS 5-4
II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL 5-5
II.D. REFUSALS OF UNIT OFFERS 5-5
II.E. ACCESSIBLE UNITS 5-7
II.F. DESIGNATED HOUSING 5-7

Chapter 6
INCOME AND RENT DETERMINATIONS

INTRODUCTION 6-1

PART I: ANNUAL INCOME

I.A. OVERVIEW 6-2
I.B. HOUSEHOLD COMPOSITION AND INCOME 6-3
I.C. ANTICIPATING ANNUAL INCOME 6-6
I.D. EARNED INCOME 6-9
I.E. EARNED INCOME DISALLOWANCE 6-12
I.F. BUSINESS INCOME 6-14
I.G. ASSETS 6-16
I.H. PERIODIC PAYMENTS 6-24
I.I. PAYMENTS IN LIEU OF EARNINGS 6-26
I.J. WELFARE ASSISTANCE 6-26
I.K. PERIODIC AND DETERMINABLE ALLOWANCES 6-27
I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME 6-28

PART II: ADJUSTED INCOME

II.A. INTRODUCTION 6-31
II.B. DEPENDENT DEDUCTION 6-32
II.C. ELDERLY OR DISABLED FAMILY DEDUCTION 6-32
II.D. MEDICAL EXPENSES DEDUCTION 6-33
II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION 6-34
II.F. CHILD CARE EXPENSE DEDUCTION 6-37
II.G. PERMISSIVE DEDUCTIONS 6-41

PART III: CALCULATING RENT

III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS 6-42
III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT 6-44
III.C. UTILITY ALLOWANCES 6-49
III.D. PRORATED RENT FOR MIXED FAMILIES 6-50
III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS 6-51

EXHIBITS

6-1: ANNUAL INCOME INCLUSIONS 6-54
6-2: ANNUAL INCOME EXCLUSIONS 6-56
6-3: TREATMENT OF FAMILY ASSETS 6-59
6-4: EARNED INCOME DISALLOWANCE 6-60
6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION 6-62

Chapter 7
VERIFICATION

INTRODUCTION 7-1

PART I: GENERAL VERIFICATION REQUIREMENTS

I.A. FAMILY CONSENT TO RELEASE OF INFORMATION 7-1
I.B. OVERVIEW OF VERIFICATION REQUIREMENTS 7-2
I.C. UP-FRONT INCOME VERIFICATION (UIV) 7-4
I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION 7-8
I.E. SELF-CERTIFICATION 7-9

PART II: VERIFYING FAMILY INFORMATION

II.A. VERIFICATION OF LEGAL IDENTITY 7-10
II.B. SOCIAL SECURITY NUMBERS 7-11
II.C. DOCUMENTATION OF AGE 7-12
II.D. FAMILY RELATIONSHIPS 7-13
II.E. VERIFICATION OF STUDENT STATUS 7-14
II.F. DOCUMENTATION OF DISABILITY 7-15
II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS 7-16
II.H. VERIFICATION OF PREFERENCE STATUS 7-17

PART III: VERIFYING INCOME AND ASSETS

III.A. EARNED INCOME 7-18
III.B. BUSINESS AND SELF EMPLOYMENT INCOME 7-18
III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS 7-19
III.D. ALIMONY OR CHILD SUPPORT 7-20
III.E. ASSETS AND INCOME FROM ASSETS 7-21
III.F. NET INCOME FROM RENTAL PROPERTY 7-21
III.G. RETIREMENT ACCOUNTS 7-22
III.H. INCOME FROM EXCLUDED SOURCES 7-22
III.I. ZERO ANNUAL INCOME STATUS 7-22

PART IV: VERIFYING MANDATORY DEDUCTIONS

IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS 7-23
IV.B. MEDICAL EXPENSE DEDUCTION 7-23
IV.C. DISABILITY ASSISTANCE EXPENSES 7-25
IV.D. CHILD CARE EXPENSES 7-27

EXHIBITS

7-1: Excerpt from HUD Verification Guidance Notice 7-32
7-2: Summary of Documentation Requirements for Noncitizens 7-37

Chapter 8
LEASING AND INSPECTIONS

INTRODUCTION 8-1

PART I: LEASING

I.A. OVERVIEW 8-1
I.B. LEASE ORIENTATION 8-2
I.C. EXECUTION OF LEASE 8-3
I.D. MODIFICATIONS TO THE LEASE 8-4
I.E. SECURITY DEPOSITS 8-6
I.F. PAYMENTS UNDER THE LEASE 8-7

PART II: INSPECTIONS

II.A. OVERVIEW 8-11
II.B. TYPES OF INSPECTIONS 8-11
II.C. NOTICE AND SCHEDULING OF INSPECTIONS 8-13
II.D. INSPECTION RESULTS 8-14

Chapter 9
REEXAMINATIONS

INTRODUCTION 9-1

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

I.A. OVERVIEW 9-2
I.B. SCHEDULING ANNUAL REEXAMINATIONS 9-2
I.C. CONDUCTING ANNUAL REEXAMINATIONS 9-4
I.D. EFFECTIVE DATES 9-6

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

II.A. OVERVIEW 9-7
II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION 9-7
II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE") 9-8

PART III: INTERIM REEXAMINATIONS

III.A. OVERVIEW 9-10
III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION 9-10
III.C. CHANGES AFFECTING INCOME OR EXPENSES 9-12
III.D. PROCESSING THE INTERIM REEXAMINATION 9-14

PART IV: RECALCULATING TENANT RENT

IV.A. OVERVIEW 9-15
IV.B. CHANGES IN UTILITY ALLOWANCES 9-15
IV.C. NOTIFICATION OF NEW TENANT RENT 9-15
IV.D. DISCREPANCIES 9-15

Chapter 10
PETS

INTRODUCTION 10-1

PART I: ASSISTANCE ANIMALS

I.A. OVERVIEW 10-2
I.B. APPROVAL OF ASSISTANCE ANIMALS 10-3
I.C. CARE AND HANDLING 10-4

PART II: PET POLICIES FOR ALL DEVELOPMENTS

II.A. OVERVIEW 10-5
II.B. MANAGEMENT APPROVAL OF PETS 10-5
II.C. STANDARDS FOR PETS 10-7
II.D. PET RULES 10-9

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

III.A. OVERVIEW 10-14
III.B. PET DEPOSITS 10-14
III.C. OTHER CHARGES 10-15

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

IV.A. OVERVIEW 10-16
IV.B. PET DEPOSITS 10-16
IV.C. NON-REFUNDABLE NOMINAL PET FEE 10-17
IV.D. OTHER CHARGES 10-18

Chapter 11
COMMUNITY SERVICE

INTRODUCTION 11-1

PART I: COMMUNITY SERVICE REQUIREMENT

I.A. OVERVIEW 11-1
I.B. REQUIREMENTS 11-2
I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE 11-7
I.D. DOCUMENTATION AND VERIFICATION 11-9
I.E. NONCOMPLIANCE 11-10

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

II.A. OVERVIEW 11-13

EXHIBITS

11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY 11-15
11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE 11-21
11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE 11-22

Chapter 12
TRANSFER POLICY

INTRODUCTION 12-1

PART I: EMERGENCY TRANSFERS

I.A. OVERVIEW 12-1
I.B. EMERGENCY TRANSFERS 12-2
I.C. EMERGENCY TRANSFER PROCEDURES 12-2
I.D. COSTS OF TRANSFER 12-2

PART II: PHA REQUIRED TRANSFERS

II.A. OVERVIEW 12-3
II.B. TYPES OF PHA REQUIRED TRANSFERS 12-3
II.C. ADVERSE ACTION 12-6
II.D. COST OF TRANSFER 12-6

PART III: TRANSFERS REQUESTED BY TENANTS

III.A. OVERVIEW 12-7
III.B. TYPES OF RESIDENT REQUESTED TRANSFERS 12-7
III.C. ELIGIBILITY FOR TRANSFER 12-8
III.D. SECURITY DEPOSITS 12-9
III.E. COST OF TRANSFER 12-9
III.F. HANDLING OF REQUESTS 12-10

PART IV: TRANSFER PROCESSING

IV.A. OVERVIEW 12-11
IV.B. TRANSFER LIST 12-11
IV.C. TRANSFER OFFER POLICY 12-12
IV.D. GOOD CAUSE FOR UNIT REFUSAL 12-12
IV.E. DECONCENTRATION 12-13
IV.F. REEXAMINATION POLICIES FOR TRANSFERS 12-13

Chapter 13
LEASE TERMINATIONS

INTRODUCTION 13-1

PART I: TERMINATION BY TENANT

I.A. TENANT CHOOSES TO TERMINATE THE LEASE 13-2

PART II: TERMINATION BY PHA – MANDATORY

II.A. OVERVIEW 13-3
II.B. FAILURE TO PROVIDE CONSENT 13-3
II.C. FAILURE TO DOCUMENT CITIZENSHIP 13-3
II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION 13-3
II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION 13-4
II.F. METHAMPHETAMINE CONVICTION 13-4
II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS 13-4

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

III.A. OVERVIEW 13-5
III.B. MANDATORY LEASE PROVISIONS 13-6
III.C. OTHER AUTHORIZED REASONS FOR TERMINATION 13-12
III.D. ALTERNATIVES TO TERMINATION OF TENANCY 13-14
III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY 13-15
III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING 13-18

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

IV.A. OVERVIEW 13-21
IV.B. CONDUCTING CRIMINAL RECORDS CHECKS 13-21
IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY 13-22
IV.D. LEASE TERMINATION NOTICE 13-23
IV.E. EVICTION 13-25
IV.F. NOTIFICATION TO POST OFFICE 13-26
IV.G. RECORD KEEPING 13-26

Chapter 14
GRIEVANCES AND APPEALS

INTRODUCTION 14-1

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

I.A. OVERVIEW 14-1
I.B. INFORMAL HEARING PROCESS 14-2

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS 14-5

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

III.A. REQUIREMENTS 14-9
III.B. DEFINITIONS 14-10
III.C. APPLICABILITY 14-11
III.D. INFORMAL SETTLEMENT OF GRIEVANCE 14-12
III.E. PROCEDURES TO OBTAIN A HEARING 14-13
III.F. SELECTION OF HEARING OFFICER/PANEL 14-15
III.G. PROCEDURES GOVERNING THE HEARING 14-16
III.H. DECISION OF THE HEARING OFFICER/PANEL 14-20

Chapter 15
PROGRAM INTEGRITY

INTRODUCTION 15-1

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

I.A. PREVENTING ERRORS AND PROGRAM ABUSE 15-2
I.B. DETECTING ERRORS AND PROGRAM ABUSE 15-4
I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE 15-5

PART II: CORRECTIVE MEASURES AND PENALTIES

II.A. UNDER- OR OVERPAYMENT 15-7
II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE 15-8
II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE 15-10
II.D. CRIMINAL PROSECUTION 15-11
II.E. FRAUD AND PROGRAM ABUSE RECOVERIES 15-12

Chapter 16
PROGRAM ADMINISTRATION

INTRODUCTION 16-1

PART I: SETTING UTILITY ALLOWANCES

I.A. OVERVIEW 16-2
I.B UTILITY ALLOWANCES 16-2
I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES 16-4
I.D. NOTICE REQUIREMENTS 16-4
I.E. REASONABLE ACCOMMODATION 16-5

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

II.A. OVERVIEW 16-6
II.B. FLAT RENTS 16-6
II.C. PUBLIC HOUSING MAXIMUM RENTS 16-8

PART III: FAMILY DEBTS TO THE PHA

III.A. OVERVIEW 16-9
III.B. REPAYMENT POLICY 16-9

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

IV.A. OVERVIEW 16-13
IV.B. PHAS INDICATORS 16-13
IV.C. PHAS SCORING 16-14

PART V: RECORD KEEPING

V.A. OVERVIEW 16-15
V.B. RECORD RETENTION 16-15
V.C. RECORDS MANAGEMENT 16-16

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

VI.A. REPORTING REQUIREMENTS 16-18

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

VII.A. NOTIFICATION TO APPLICANTS 16-19
VII.B. NOTIFICATION TO TENANTS 16-19

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

This chapter contains information about the PHA and its programs with emphasis on the public housing 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 (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE PHA

1-I.A. OVERVIEW

This part describes the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

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

Public housing is funded by the federal government and administered by the Benton Harbor Housing Commission for the jurisdiction of Berrien County: City of Benton Harbor, Michigan / County of Berrien / State of Michigan.

Benton Harbor Housing Commission is governed by a board of officials that are generally called "commissioners." Although some PHAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which Benton Harbor Housing Commission; hitherto refer to as BHHC, conducts business, and ensures that those policies are followed by BHHC staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of Benton Harbor Housing Commission are taken through written resolutions, adopted by the board and entered into the official records of BHHC.

The principal staff member of BHHC is the executive director (ED), who is selected and hired by the board. The ED oversees the day to day operations of BHHC and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising BHHC's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some PHAs, the ED is known by another title, such as chief executive officer or president.

1-I.C. Benton Harbor Housing Commission Mission Statement

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

BHHC Policy

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

1-I.D. BHHC's COMMITMENT TO ETHICS AND SERVICE

As a public service agency, BHHC is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, BHHC resolves to:

- 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 good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- 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- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing BHHC'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 BHHC's support systems and commitment to our employees and their development.

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

PART II: THE PUBLIC HOUSING PROGRAM

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the PHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the PHA.

The job of the PHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The PHA screens applicants for public housing and, if they are found eligible and accepted, the PHA offers the applicant a unit. If the applicant accepts the offer, the PHA will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a tenant of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the PHA owns the public housing development, the PHA is the landlord. The PHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA policy.

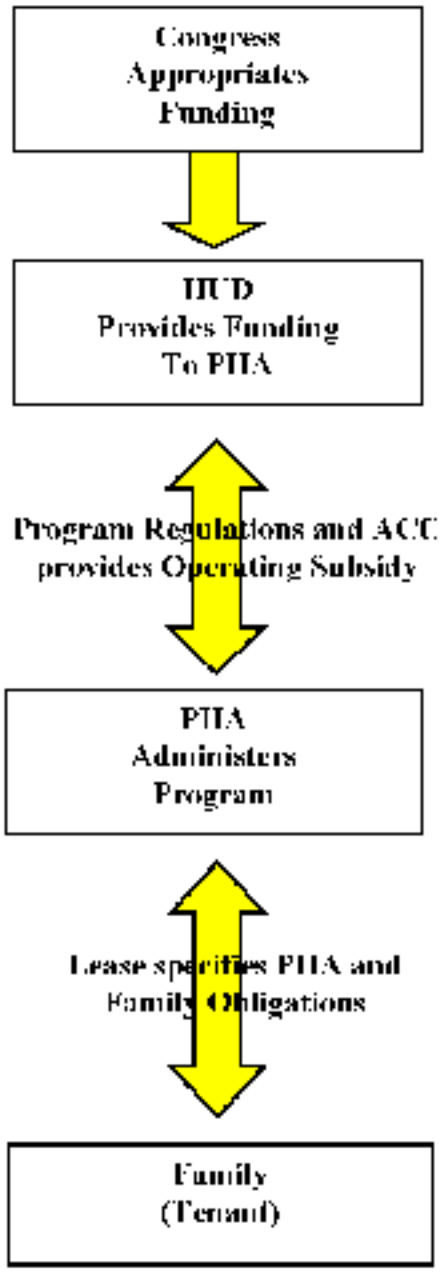
1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, the PHA enters into a contractual relationship with HUD through the ACC. The PHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved – HUD, the PHA, and the tenant – must play their important parts.

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

The Public Housing Relationships



What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to BHHC
- Allocate capital funding to BHHC
- Provide technical assistance to BHHC on interpreting and applying program requirements
- Monitor BHHC's compliance with program requirements and BHHC's performance in program administration.

What does BHHC do?

BHHC's responsibilities originate in federal regulations and the ACC. BHHC owns and manages public housing developments, administers the 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
- Maintain housing units by making any necessary repairs in a timely manner
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure that BHHC has adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, BHHC's ACOP, and other applicable federal, state and local laws.

What does the Tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease
- Provide BHHC with complete and accurate information, determined by BHHC to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by BHHC
- Allow BHHC to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify BHHC before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify BHHC of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

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

The ACOP is the PHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the PHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The PHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the PHA's written policy. At a minimum, the ACOP plan should cover PHA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

New Approach to Policy Development

HUD has developed an approach to monitoring policy that emphasizes the importance of consistency. The ACOP supports that goal by clearly defining PHA policy for PHA management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD has made it clear that consistency in PHA conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying PHA policy.

HUD makes a distinction between:

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

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA's Admissions and Continued Occupancy Policy is the document that contains and clarifies PHA policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts its own optional policy, it must make its own determination that such policy 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 that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

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

BHHC Policy

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PHA 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)
- The Violence Against Women Reauthorization Act of 2005 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

BHHC Policy

BHHC complies with all federal, state and local nondiscrimination laws; all federal, state and local nondiscrimination laws and ordinances apply to BHHC's day-to-day operations. Local Law / BHHC is governed by and conducts its day-to-day operations in compliance to the Michigan Elliott-Larsen Civil Right Act and Michigan's Persons with Disabilities Civil Rights Act

2-I.B. NONDISCRIMINATION

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

The PHA 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.

BHHC Policy

BHHC will not discriminate on the basis of race, color, sex, religion, familial status, age, disability or national origin, or as well as additional protections afforded under the regulations with regard to gender identification, sexual orientation and marital status, military status and/ any group(s) of a protected class under the federally-Protected laws and ordinances . FR Notice 02/03/12

BHHC Policy

The PHA does not identify any additional protected classes

BHHC 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 public housing 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 tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- 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

The PHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the PHA will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or tenant family's assertions have merit and take any warranted corrective action.

BHHC Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify BHHC either orally or in writing.

BHHC will attempt to remedy discrimination complaints made against the PHA.

BHHC 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) and/or appropriate housing agencies."

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8] [PIH-2010-2] .

The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)], [PIH-2010-2]

BHHC Policy

BHHC will ask all applicants and resident families if they require any type of accommodations; in writing, on the intake application, on reexamination documents, and notices of adverse action by BHHC, 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 your Housing Manager.

BHHC Housing Manger's will serve as the agency Section 504/ADA Coordinator(s) and will be responsible for monitoring BHHC's compliance with this Policy. Individuals who have questions regarding this Policy, its interpretation or implementation should contact BHHC's Section 504/ADA Coordinator in writing, by telephone, or by appointment, as follows:

LaVetta White 504/ADA Coordinator for:
BUSS Development - 10/7 and 10/9 Properties
925 Buss Avenue Benton Harbor, MI 49022
Phone Number: 269-927-3545
Dedicated TTDY Phone Number: 269-927-6511
Facsimile Number: 269-927-5886

Carleshia Sims 504/ADA Coordinator for:
Harbor Towers and 10/5 Properties
250 East Wall Street Benton Harbor, MI 49022
Phone Number: 269-927-3529
Dedicated TTDY Phone Number: 269-927-6511
Facsimile Number: 269-927-5887

Pamela Benson 504/ADA Coordinator for:
Housing Choice Voucher Program
721 Nate Wells Drive Benton Harbor, MI 49022
Phone Number: 269-927-3546 ext 19
Dedicated TTDY Phone Number: 269-927-6511
Facsimile Number: 269-927-5893

Danethel Whitfield 504/ADA Coordinator for:
Hope VI/Harbor Bluff Program
406 Pipestone Ave.
Phone Number: 269-934-0163
Dedicated TTDY Phone Number: 269-927-6511
Facsimile Number: 269-924-0197

BHHC has adopted and implemented a Reasonable Accommodation Policy and Procedure.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

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

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the PHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability.

BHHC Policy

BHHC will encourage the family to make its request in writing using a reasonable accommodation request form. However, BHHC 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

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

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

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

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

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

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

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

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

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

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

BHHC Policy

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

If BHHC denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal BHHC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If BHHC 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 BHHC's operations), BHHC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If BHHC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, BHHC 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. The notice will inform the family of the right to appeal BHHC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

HUD regulations require the PHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6(A)(1) & CFR 8.6(A)(2)].

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

BHHC 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 and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with BHHC 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

BHHC must comply with a variety of regulations pertaining to physical accessibility, including the following.

- PIH 2006-13, 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 PHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2006-13 Accessibility Notice (which must be posted in the public housing 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 PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)]. 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 family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the PHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation [24 CFR 966.7].

In addition, the PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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 public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 in the *Federal Register.*

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

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

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

2-III.B. ORAL INTERPRETATION

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

BHHC Policy

BHHC 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, BHHC 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, BHHC 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 BHHC. 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. Regarding written translation the *Federal Register notice of January 22, 2007*, provides "safe harbor" guidance regarding written translation. "Safe Harbor" means that if a PHA provides written translation under this guidance, such action will be considered strong evidence of compliance.

BHHC Policy

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

BHHC 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, BHHC may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

*Federal Register notice of January 22, 2007*After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

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

BHHC Policy

If it is determined that BHHC serves very few LEP persons, and BHHC has very limited resources, BHHC 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 BHHC 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 live activities.

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

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing 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 definition of 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 allowance for medical expenses, or the allowance for disability assistance expenses.

Chapter 2 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 public housing program, yet an accommodation is needed to provide equal opportunity.

DEFINITION OF A PERSON WITH A DISABILITY

The definition below covers public housing eligibility for programs serving persons with disabilities such as mixed population housing, designated housing for persons with disabilities, vouchers targeted for persons with disabilities, and eligibility for the $400 deduction for disabled families and for medical deductions or disability assistance deductions for persons with disabilities. Families that do not qualify as disabled families may still be eligible for public housing programs and preferences that are not linked to disability status.

Definitions

In accordance with 24 CFR Part 5.403:

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

A person with disabilities is a person who is disabled as defined in 42 U.S.C. 423 (the Social Security definition); is determined to have a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration; is substantially impeded in his or her ability to live independently; is of such nature that the ability to live independently could be improved by more suitable housing conditions; or has a developmental disability as defined in 42 U.S.C. 6001. Persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome are not excluded. For purposes of qualifying for public housing programs, where eligibility is linked to disability status, a person whose disability is based solely on any drug or alcohol dependence is excluded.

Preference for Persons with Disability

Some PHAs may wish to establish a preference for persons with disabilities for certain units, either at mixed population buildings or family complexes. This, of course, is in addition to the requirement that UFAS accessible or adaptable units be leased to persons who need the features of these units where there are current residents or persons on the waiting list who need such units. If a PHA is considering adopting a preference for persons with disabilities, it must make the preference available to all persons with disabilities, and not target the preference to persons with specific types of disabilities. If a percentage of units in a development are subject to a preference for persons with disabilities, PHAs must ensure that the preference does not lead to segregation of persons with disabilities in one section of the development.

Elderly and Disabled Family Deduction

This $400 annual deduction is available to families whose head of household, their spouse, or a sole member who is at least 62 years of age (elderly families), or a person with a disability (disabled families). This may also include two or more such persons living together, or two or more such persons living with a live-in aide. Each Elderly or Disabled Family is limited to one $400 deduction regardless of the number of elderly or disabled household members.

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - 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 PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA 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 Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny admission.

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 public housing 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 5.403 and HUD-50058 p. 13, FR Notice 02/03/12]

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

Family

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

Gender Identity means actual or perceived gender characteristics.
Sexual orientation means homosexuality, heterosexuality, or bisexuality

BHHC 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 BHHC's permission, live in a public housing 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

BHHC 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 living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, BHHC will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, BHHC will determine which family retains their placement on the waiting list, or will continue in occupancy. In making this determination BHHC will taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) the interest of any family member who has the victim of domestic violence, dating violence, or stalking and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (4) the recommendations of social service professionals.

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 a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. 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.

BHHC 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].

Spouse means the marriage partner of the head of household.

BHHC 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.

BHHC 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 [HUD-50058].

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

BHHC 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 resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are 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, BHHC will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

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

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

Identifying each FTS is important because (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.

PIH Notice 2005-16

1. *In order to be eligible for program assistance, an applicant must meet income eligibility requirements, as established by Section 3(a)(1) and 8(o)(4) of the U.S. Housing Act of 1937 and implementing regulations at 24 CFR 960.201 and 982.201.*
2. DETERMINING AND VERIFYING ELIGIBILITY OF "FULL-TIME" COLLEGE STUDENTS OF NON-PARENTAL/GUARDIAN HOUSEHOLDS.

Chapter 3

a. LISTED IN TABLE A ARE REQUIRED ELIGIBILITY AND VERIFICATION STANDARDS THAT MUST BE MET PRIOR TO ADMITTING "FULL-TIME" COLLEGE STUDENTS TO PIH RENTAL ASSISTANCE PROGRAMS. A FULL-TIME STUDENT IS DEFINED AS A PERSON WHO IS ATTENDING SCHOOL OR VOCATIONAL TRAINING ON A FULL-TIME BASIS (24 CFR 5.603).

TABLE A — REQUIRED STEPS	
DETERMINATION OF ELIGIBILITY	VERIFICATION OF ELIGIBILITY
The student must be of legal age or an emancipated minor under the state law.	PHAs must obtain proof of age such as a valid drivers license, identification card issued by a federal, state, or local agency, identification issued by a medical insurance company, birth certificate, or other form of identification, as determined by the PHA.
The student must be income eligible for admission to the public housing/HCV programs (24 CFR 960.201 and 982.201).	PHAs must verify all sources of reported family income, in accordance with 24 CFR 960.259 and 982.516.

b. Listed in table B are <u>suggested</u> eligibility and verification standards and policies for admitting "full-time" college students. PHAs are encouraged to update their policies and implement the following regarding "full-time" college students.

Table B — Suggested Steps	
DETERMINATION OF ELIGIBILITY	**VERIFICATION OF ELIGIBILITY**
Each college student within a household must provide a *written/signed certification* that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support	PHAs must verify, <u>via independent third-party verification</u>, all amounts anticipated to be received outside of the family during the 12-month period following admission and the effective date of the annual reexamination
The college student must have established a household separate from his/her parents or legal guardians for at least *one year* prior to applying to public housing, voucher, or certificate programs	Obtain evidence of separate households by reviewing/verifying the address information that predates the student's application by a minimum of *one* year
The college student *must not be claimed* as a dependent by parent(s) or legal guardian(s) on their Internal Revenue Services (IRS) tax return	This may be achieved by requesting a copy of the college student's Form 1040EZ, 1040A, or 1040 tax returns for the prior year. Check the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (See box "5" for Form 1040EZ and box "6a" for Forms 1040A and 1040). The PHA may also, if practicable, review the college student's parents' or guardians' tax return. The college student must supply any information that the PHA or HUD determines is necessary in administration of public housing, voucher, or certificate programs (24 CFR 960.259 and 982.551)

NOTE: In all instances, a household must be income eligible and meet any and all eligibility criteria required by HUD.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY
[24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

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 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

Under the public housing 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 PHA must make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

In accordance with 24 CFR Part 5.403:

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

Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

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

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

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR 966.4(f)].

BHHC Policy

A resident family must notify BHHC when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 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.

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 public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

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

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(c)(2)].

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

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

BHHC 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.

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, and illness.

Definitions of Temporarily and Permanently Absent

BHHC Policy

Generally an individual who is or is expected to be absent from the public housing 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 public housing 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

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

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

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

BHHC Policy

If a child has been placed in foster care, BHHC 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

BHHC 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.

Individuals Confined for Medical Reasons

BHHC Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, BHHC 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

BHHC Policy

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

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, 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 PHA 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 a 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(c)(5)]. 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.

BHHC 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 of the family's choosing, 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 BHHC's 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.

BHHC has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

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

The person has a history of drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to BHHC 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, BHHC 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 public housing 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.

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 960.201]

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 a *low-income* family.

Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted to the PHA's public housing program during a PHA fiscal year from the PHA waiting list must be *extremely low-income* families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the PHA's housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the PHA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the PHA fiscal year
- Ten percent of waiting list admission to the PHA's housing choice voucher program during the PHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

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 PHA'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 PHA to request additional documentation of their status, such as a passport.

BHHC Policy

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA 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 PHA 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 admission 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 14 for a discussion of informal hearing procedures.

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

A PHA 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 PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

BHHC Policy

BHHC will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When BHHC 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 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 BHHC. The informal hearing with BHHC 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 14.

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

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

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

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

BHHC Policy

BHHC 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 and Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate Social Security Number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a household member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. 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.

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

In addition, each participant who has not previously disclosed a SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation requires to verify the SSN at the time of the next interim or regular reexamination or recertification.

Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

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 PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits the PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking. [24 CFR 5.2005 (b)].

This part covers the following topics:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, or stalking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the PHA has reasonable cause to believe that a 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.

Where the statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the PHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires the PHA 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 PHA to admit an otherwise-eligible family if the household member has completed a PHA-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).

  BHHC Policy
  BHHC will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 years for drug-related criminal activity, if BHHC is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by BHHC, or the person who committed the crime is no longer living in the household.

- If BHHC determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

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

- If BHHC 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.

  BHHC Policy
  In determining reasonable cause, BHHC 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. BHHC 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 in any location not just on the premises of federally assisted housing, the family will be denied admission.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program, the family will be denied admission.

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

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

Criminal Activity [24 CFR 960.203 (c)]

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

BHHC 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 admission.

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 welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of BHHC staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the PHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the PHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the PHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

BHHC Policy

BHHC will deny admission to an applicant family if BHHC determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years.

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants

Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)

Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward BHHC personnel

Abusive or violent behavior towards BHHC *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 admission, BHHC will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, BHHC may, on a case-by-case basis, decide not to deny admission.

BHHC will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the PHA in complying with HUD requirements and PHA 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 PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The PHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

BHHC Policy

BHHC will conduct a Home Visit for all determined eligible applicants. The purpose of this visit is to determine if the applicant is unwilling or unable to comply with BHHC's lease and housekeeping standards.

BHHC will perform criminal background checks through local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, BHHC will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

BHHC 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 960.204(a)(4)].

If BHHC proposes to deny admission based on a criminal record or on lifetime sex offender registration information, BHHC 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)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the PHA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the PHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the PHA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If the PHA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The PHA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

Policy B: The PHA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the PHA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

BHHC Policy

BHHC will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when BHHC has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The PHA is responsible for the screening and selection of families to occupy public housing units. The PHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

BHHC Policy

BHHC will consider the family's history with respect to the following factors:

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

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

PHAs have a variety of resources available to them for determination of the suitability of applicants. Generally, PHAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

BHHC Policy

In order to determine the suitability of applicants BHHC will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and/or landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again. BHHC will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history BHHC will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide BHHC with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from BHHC, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits will be used to determine the applicant's ability to care for the unit.

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

BHHC Policy - ***Evidence***
BHHC 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 960.203(c)(3) and (d)]
HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).
In the event the PHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, PHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

BHHC Policy
BHHC 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 admission 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.F) 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

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

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

BHHC 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 960.203(c)(3)(i)]
HUD permits PHAs 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 warrants denial of admission, to not reside in the unit.

BHHC Policy
As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.
After admission to the program, the family must present evidence of the former family member's current address upon BHHC request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

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

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

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING
[24 CFP Part 5 - Final Guidance Federal Register October2010][24CFR5.2005(b)]

The Violence against Women Reauthorization Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) 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 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

> Every contract for contributions shall provide that . . . the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

BHHC Policy

BHHC acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under BHHC's policies. Therefore, if BHHC makes a determination to deny admission to an applicant family, BHHC will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP and will request that an applicant wishing to claim this protection notify BHHC within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

BHHC Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, or stalking, BHHC will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VVII.D of this ACOP.

Perpetrator Documentation

BHHC Policy

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

> A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the housing unit

Applicant must provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. 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.

Notification and Victim Documentation

BHHC Policy

BHHC acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under the BHHC's policies. Therefore, if BHHC makes a determination to deny admission to an applicant family on the basis of an unfavorable history, BHHC 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. Documentation must be made in writing and delivered to BHHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHHC's notification of denial of admission. Any documentation or information received from reporting agencies will be kept in a secure location and access will be limited to authorized BHHC staff. Documentation will be kept on file for a period of 10days after which the documents will be destroyed. In the event that an applicant requests an informal hearing the documentation will be disposed of after the disposition of the requested informal hearing.

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

One of the following:

A police or court record documenting the actual or threatened abuse

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 hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, BHHC will grant an extension of 10 business days, and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant BHHC determines the family is eligible for assistance, no informal hearing will be scheduled and BHHC will proceed with admission of the applicant family.

BHHC Confidentiality Requirements

All information provided to BHHC 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.

BHHC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BHHC staff.

BHHC 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.

In addition, BHHC will ensure that all applicant and participant information and files are maintained in a secure locked file cabinet in a way that protects an individual's privacy rights.

Applicant files will not be shared with a database nor provided to any related entity, except where written permission by the applicant is given to BHHC.

Applications will be stored for no less than (5) five years. If the applicant is determined to be eligible, the criminal history report shall be shredded as soon as the applicant is housed. The file will be noted that a Criminal Background check was performed. Applicant denied housing, due to an unfavorable criminal background history. The file will be noted with the statement *adverse reporting*. The actual report will be kept in a separate locked file cabinet. The information will only be retained during the allotted time limit granted by BHHC's grievance procedures. Once the time limit has expired and if there has been no request made by the applicant for a hearing, the record will be shredded. BHHC will shred negative criminal background reports

BHHC Policy

BHHC has implement a system of records management that ensures that any criminal record received by BHHC from a law enforcement agency is confidentially maintained, it will not be misused or improperly disseminated, and will be destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to BHHC.

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The PHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHA 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 PHA 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)].

BHHC Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, BHHC 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 BHHC to dispute the information within that 10 day period, BHHC 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 hearing process.

Notice requirements related to denying admission 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.F.

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
  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

   (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

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

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and 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 PHA to receive preferential treatment.

HUD regulations require that the PHA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families from the waiting list. The PHAs policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

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 PHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the PHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the PHA will use to keep the waiting list current.
>
> Part III: Tenant Selection. This part describes the policies that guide the PHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the PHA 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 PHA'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 PHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the PHA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as a part of the PHA's application [Notice PIH 2009-36]

BHHC Policy

Depending upon the length of time that applicants may need to wait to be housed, BHHC may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when 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, BHHC 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 the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from BHHC'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.

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

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The PHA 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 PHA application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

The PHA 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 PHA must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each completed application received and make a preliminary assessment of the family's eligibility. The PHA must place on the waiting list families for whom the list is open unless the PHA determines the family to be ineligible. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

BHHC Policy

If BHHC 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, BHHC will send written notification of the ineligibility determination within 10 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

BHHC Policy

BHHC will send written notification of the preliminary eligibility determination within 10 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

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

Applicants will be placed on the waiting list according BHHC preference(s) and the date and time their complete application is received by BHHC.

BHHC will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to PHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding the type of waiting list it will utilize as well as the 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 public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for public housing at a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The PHA's public housing waiting list must be organized in such a manner to allow the PHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

BHHC Policy

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

Name and social security number of head of household

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirement, if any

Date and time of application or application number

Household type (family, elderly, disabled)

Admission preference, if any

Race and ethnicity of the head of household

The specific site(s) selected (only if PHA offers site-based waiting lists)

The PHA may adopt one community-wide waiting list or site-based waiting lists. The PHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

BHHC Policy

BHHC will maintain one single community-wide waiting list for its developments. Within the list, BHHC will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units).

BHHC will not adopt site-based waiting lists.

HUD directs that a family that applies to reside in public housing must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

BHHC Policy

BHHC will not merge the public housing waiting list with the waiting list for any other program BHHC operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The PHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fill its developments. The PHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

BHHC Policy

BHHC will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where BHHC has particular preferences or other criteria that require a specific category of family, BHHC 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 may be reopened at any time. The PHA should publish a notice in local newspapers of general circulation, minority media, and other suitable media outlets that the PHA is reopening the waiting list. Such notice must comply with HUD fair housing requirements. The PHA should specify who may apply, and where and when applications will be received.

BHHC Policy

BHHC 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 notice will specify where, when, and how applications are to be received.

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

Herald Palladium

Benton Spirit

South Bend Newspapers

Local radio Stations

Public Access TV stations

4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

The PHA should conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the PHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the PHA to serve a specified percentage of extremely low income families, the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

PHA 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

PHA outreach efforts must be designed to inform qualified families about the availability of units 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

BHHC Policy

BHHC will monitor the characteristics of the population being served and the characteristics of the population as a whole in BHHC'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

BHHC Policy

While the family is on the waiting list, the family must inform BHHC, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.F. UPDATING THE WAITING LIST

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

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 the PHA's request for information or updates because of the family member's disability, the PHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

BHHC Policy

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

To update the waiting list, BHHC will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that BHHC 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 BHHC not later than 15 business days from the date of BHHC's letter.

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

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent BHHC from making an eligibility determination; therefore no informal hearing is required.

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

Removal from the Waiting List

BHHC Policy

BHHC will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

If BHHC determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because BHHC has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding BHHC's decision

(see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The PHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The PHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

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

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 960.206(e)(2)]. The PHA's policies must be posted any place where the PHA receives applications. The PHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The PHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

BHHC Policy

When an applicant or resident family requests a copy of BHHC's tenant selection policies, BHHC will provide copies to them free of charge.

4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

Local Preferences [24 CFR 960.206]

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

BHHC Policy

BHHC will use the following local preference:

In order to bring higher income families into public housing, BHHC will establish a preference for 'working' families, where the head, spouse, cohead, or sole member is employed at least 30 hours per week. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)]. Families that use this preference must maintain their employment for 12 consecutive months or until their annual effective date for re-certification.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during the PHA'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, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a PHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the PHA's HCV program during a PHA fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the PHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA's housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

BHHC Policy

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

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The PHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The PHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the PHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The PHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]

The PHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The PHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the PHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the PHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the PHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

BHHC Policy

BHHC has designated portions of its public housing stock specifically for elderly or disabled families. BHHC will give elderly and disabled families equal preference in selecting families for admission to mixed population developments. BHHC will not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, BHHC must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. BHHC will not discriminate against elderly or disabled families that include children

(Fair Housing Amendments Act of 1988).

Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]

The PHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the PHA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The PHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation [24 CFR 903.2(c)(1)]

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the PHA must comply with the following steps:

Step 1. The PHA must determine the average income of all families residing in all the PHA's covered developments. The PHA may use the median income, instead of average income, provided that the PHA includes a written explanation in its annual plan justifying the use of median income.

BHHC Policy

BHHC will determine the average income of all families in all covered developments on an annual basis.

Step 2. The PHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the PHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

BHHC Policy

BHHC will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. The PHA must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low income family (30% of median income).

Step 4. The PHA with covered developments having average incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the PHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances the PHA's deconcentration policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR
- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the PHA's deconcentration policy. The PHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the PHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the PHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

BHHC Policy

For developments outside the EIR BHHC will take the following actions to provide for deconcentration of poverty and income mixing:

It is the policy of BHHC to house families in a manner that will prevent a concentration of poverty families and/or concentration of higher income families in any one development. The specific objective of BHHC is to house no less than 40% of its inventory with families that have income at or below 30% of the area median income by public housing development. Also BHHC will take actions to ensure that no individual development has a concentration of higher income families in one or more of the developments.

To ensure that BHHC does not concentrate families with higher income levels, it is the goal of BHHC not to house more than 60% of its units in any one development with families whose income exceeds 30% of the area median income.

BHHC will track the status of family income, by development on a monthly basis by utilizing income reports generated by BHHC staff.

To accomplish the de-concentration goals the BHHC will take the following actions:

A. At the beginning of each fiscal year, the BHHC will establish a goal for housing 40% of its new admissions with families whose incomes are at or below the area median income. The annual goal will be calculated by taking 40% of the total number of move-ins from the previous fiscal year.

B. To accomplish the goals of:

1. Housing not less than 40% of its inventory on an annual basis with families that have incomes at or below 30% of area median income, and
2. Not housing families with incomes that exceed 30% of the area median income in developments that have 60% or more of the total household living the development with incomes that exceed 30% of the area median income, the BHHC's Resident Selection and Assignment Plan, provides for the utilization of local preferences with regards to applicant selection from its waiting list.

Order of Selection [24 CFR 960.206(e)]

The PHA system of preferences may select families either according to the date and time of application or by a random selection process.

BHHC Policy

Families will be selected from the waiting list based on preference. Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by BHHC.

When selecting applicants from the waiting list, BHHC will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. BHHC will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and BHHC Policy.

4-III.C. NOTIFICATION OF SELECTION

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

BHHC Policy

BHHC 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

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to BHHC with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents BHHC from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family id otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2012-10].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

BHHC Policy

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

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

The interview will be conducted only if the head of household or spouse/cohead 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.

Pending disclosure and documentation of social security numbers, BHHC will allow the family to retain its place on the waiting list for 60 days. If not all household members have disclosed their SSNs at the next time a unit becomes available, BHHC will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, BHHC will proceed with the interview. If BHHC determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, BHHC 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, BHHC will provide translation services in accordance with the BHHC's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact BHHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, BHHC will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without BHHC's approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents BHHC from making an eligibility determination; therefore BHHC will not offer an informal hearing.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

BHHC Policy

BHHC will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The PHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

BHHC Policy

If BHHC determines that the family is ineligible, BHHC 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 hearing (see Chapter 14).

If the PHA 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 PHA can move to deny the application. See Section 3-III.G for the PHA's policy regarding such circumstances.

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The PHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The PHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the PHA's standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains the PHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the PHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the PHA does determine the size of unit the family qualifies for under the occupancy standards, the PHA does not determine who shares a bedroom/sleeping room.

The PHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

BHHC Policy

BHHC will use the same occupancy standards for each of its developments.

BHHC's occupancy standards are as follows:

BHHC 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 5) will not be required to share a bedroom.

Persons of different generations will not be required to share a bedroom.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Foster children will be included in determining unit size.

BHHC will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10
6	8	12

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

BHHC Policy

BHHC will consider granting exceptions to the occupancy standards at the family's request if the BHHC determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests BHHC will consider the size and configuration of the unit. In no case will BHHC grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, BHHC may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

BHHC Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, BHHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, BHHC will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

BHHC will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii)

5-II.A. OVERVIEW

The PHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination.

In filling an actual or expected vacancy, the PHA must offer the dwelling unit to an applicant in the appropriate sequence. The PHA will offer the unit until it is accepted. This section describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the PHA's policies for offering units with accessibility features.

BHHC Policy

BHHC will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

BHHC Policy

BHHC has adopted a "two-to-three offer plan" for offering units to applicants. Under this plan, BHHC will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. The number of unit offers will be based on the distribution of vacancies. If a suitable unit is available in:

Three (3) or more locations: The applicant will be offered a unit in the location with the highest number of vacancies. If the offer is rejected, the applicant will be offered a suitable unit in the location with the second highest number of vacancies. If that unit is rejected, a final offer will be made in the location with the third highest number of vacancies. The offers will be made in sequence and the applicant must refuse an offer before another is made.

If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

BHHC Policy

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

BHHC Policy

Applicants may refuse to accept a unit offer for *"good cause." Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to BHHC's satisfaction that accepting the unit offer will deny the accessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities

The family demonstrates to BHHC's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D. of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move

The unit has lead-based paint and the family includes children under the age of six

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The PHA will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

BHHC Policy

When an applicant rejects the final unit offer without good cause, BHHC will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance. If the waiting list is not open, the applicant must wait to reapply until BHHC opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the PHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the PHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

BHHC Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, BHHC will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, BHHC will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

When applicable, BHHC's policies for offering units designated for elderly families only or for disabled families only are described in BHHC's Designated Housing Plan.

Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. The PHA 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 PHA 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 PHA policies for calculating annual income are found in Part I.

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

Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

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

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

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance (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 ACOP, 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	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

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].

BHHC 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

BHHC 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 BHHC 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].

BHHC Policy

If a child has been placed in foster care, BHHC 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

BHHC 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**.**

Individuals Confined for Medical Reasons

BHHC Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, BHHC 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.

Joint Custody of Children

BHHC 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 resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are 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 PHA 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

BHHC Policy

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

If a responsible agency has determined that another adult is to be brought into the 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.

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 BHHC will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

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.

6-I.C. ANTICIPATING ANNUAL INCOME

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

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

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)]. HUD allows PHAs to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

BHHC Policy

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

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

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

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

When BHHC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), BHHC 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 BHHC to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income
If BHHC 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 BHHC would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

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

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

- EIV quarterly wages will not be used to project annual income or interim re-examination.

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" [PIH Notice 2004-01 Verification Guidance ("VG"), p. 7].

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

BHHC Policy
BHHC 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 BHHC interview date.

BHHC 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, BHHC will follow these guidelines:

If the UIV figure is less than the family's figure, BHHC will use the family's information.

If the UIV figure is more than the family's figure, BHHC 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 PHA 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, BHHC will follow these guidelines:

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

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

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

BHHC 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 [24 CFR 5.609(b)(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 is included in annual income.

> **BHHC Policy**
> For persons who regularly receive bonuses or commissions, BHHC will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, BHHC will use the prior year amounts. In either case the family may provide, and BHHC 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, BHHC 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.

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

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

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

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]
Income from some federal programs is specifically excluded from consideration as income, 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 [24 CFR 5.600(c)(8)(iv)]

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 BHHC, 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 BHHC's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program

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)].

BHHC Policy

BHHC 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].

BHHC 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, BHHC 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 BHHC 's interim reporting requirements (see chapter on reexaminations).

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.

BHHC 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 is discussed in section 6-I.E.

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]

The earned income disallowance (EID) encourages people 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 960.255 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 public housing 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 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 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 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."

> **BHHC** Policy
> BHHC 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.

> **BHHC** 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.

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

Individual Savings Accounts [24 CFR 960.255(d)]

BHHC Policy

BHHC chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

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".

BHHC Policy

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

Business Expansion

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

BHHC Policy

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

Capital Indebtedness

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

BHHC Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

BHHC Policy

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

BHHC 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 public housing program. However, HUD requires that the PHA 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 PHA 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 PHA policies related to each type of asset.

General Policies

Income from Assets

The PHA 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 PHA 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 PHA 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 PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

BHHC Policy

Any time 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 BHHC 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 PHA 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.

> **BHHC** 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.

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 PHA 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 PHA 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 HUD-established passbook savings rate.

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

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."

BHHC Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, BHHC 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, BHHC will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, BHHC 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 PHA 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 PHA may set a threshold below which assets disposed of for less than fair market value will not be counted.

BHHC Policy

BHHC 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 nonrevocable 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.

BHHC 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

BHHC 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. BHHC may verify the value of the assets disposed of if other information available to BHHC 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.

BHHC Policy

In determining the value of a checking account, BHHC will use the average monthly balance for the last six months.

In determining the value of a savings account, BHHC will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, BHHC 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.

BHHC Policy

In determining the market value of an investment account, BHHC 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), BHHC 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.

PHA Policy

In determining the equity, the PHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The PHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the PHA will use the basic loan balance information to deduct from the market value in the equity calculation.

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)]
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation.

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

BHHC 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 BHHC 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. 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.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (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 PHA must know whether the money is accessible before retirement.

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

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

IRA, Keogh, and Similar Retirement Savings Accounts

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

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc. is considered an asset.

BHHC Policy

In determining the value of personal property held as an investment, BHHC will use the family's estimate of the value. BHHC may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot change any cost 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)].

BHHC Policy

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry and vehicles includind 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. 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)]

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)]. Additionally, any deferred disability benefits that are received in lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08]

BHHC Policy

When a delayed-start payment is received and reported during the period in which BHHC is processing an annual reexamination, BHHC will adjust the tenant rent 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 BHHC.

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Treatment of Overpayment Deductions from Social Security Benefits

BHHC must make a special calculation of annual income when the Social Security Administration (SSA) overpayments an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and the duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)] Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1].

  BHHC Policy
  BHHC 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.

- 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)].

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 PHA 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 a public housing resident 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 PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency inform the PHA when the benefits of a public housing resident 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)].

For special procedures related to grievance hearings based upon the PHA's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

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 a tenant family.

Alimony and Child Support

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

BHHC Policy

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

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 PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

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

6-I.L. 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)]

Rent Calculations Covered By PIH 2005-37

a. Annual Income

In calculating annual income for a family, the low-income subsidy received to assist low-income persons in paying for their Medicare prescription drug plan costs must be excluded as annual income for the purpose of calculating any rent or assistance.

b. Adjusted Income

The amount of unreimbursed out-of-pocket expenses for prescription drugs must be treated as a standard medical deduction when determining the family's medical expenses deduction. PHAs, Owners and Management Agents must follow the guidance on medical expenses found in HUD Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs,* the *Public Housing Occupancy Guidebook,* the *Housing Choice Voucher Program Guidebook* and the regulations at 24 CFR 5.609(c)(4) and 5.611(a)(3).

Persons with a Medicare prescription drug plan may be required to pay a premium up to $37 and this premium will be counted as a medical deduction. However, many of those receiving the low-income subsidy will not be required to pay a premium.

Not all prescription drugs are covered under the Medicare prescription drug plans; therefore, a person may be paying full price for some prescription drugs and a reduced amount for other prescription drugs.

The standard medical deduction as described at 24 CFR 5.609(c)(4) and 5.611(a)(3) continues to be the sum of allowable medical expenses that exceed 3 percent of annual income.

- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)], except that in accordance with Section 224 of the FY 2005 Appropriations Act, the portion of any athletic scholarship assistance available for housing costs must be included in annual income [PIH Notice 2005-16].

BHHC Policy

Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included in annual income.

- 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) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the 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)

(s) 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 PHAs to deduct from annual income any of four mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

BHHC Policy

Generally, BHHC 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), BHHC will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, BHHC 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. BHHC 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 any household member with a disability, and/or 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 for any household member with a disability. If a family member is eligible for a medical expense deduction, the medical expenses of all family members are counted.

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."

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

Families That Qualify for Both Medical and Disability Assistance Expenses

BHHC Policy

This policy applies only to families in which any household member with a disability qualifies for the household deduction.

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

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

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.

BHHC 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, BHHC 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 BHHC determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work.

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

BHHC Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

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

BHHC 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, BHHC 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 expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are 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.

BHHC Policy
BHHC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, BHHC will collect information from organizations that provide services and support to persons with disabilities. A family may present, and BHHC 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

BHHC 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, BHHC 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."

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.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

BHHC 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, BHHC 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

BHHC 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 BHHC.

Furthering Education

BHHC 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

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

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

BHHC 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, BHHC 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 tenant family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

BHHC 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,

BHHC 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.

BHHC 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, BHHC will use the schedule of child care costs from the local welfare agency. Families may present, and BHHC will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose.

If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

BHHC Policy
BHHC has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

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

Welfare Rent [24 CFR 5.628]

BHHC Policy
Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

BHHC Policy
The minimum rent for this locality is $50.00.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

BHHC Policy
BHHC chooses not to adopt optional changes to income-based rents.

Utility Reimbursement [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

BHHC Policy
BHHC will make utility reimbursements to the utility supplier each month. During the annual re-examination the family will sign the necessary authorization forms designating which utility supplier the family wants their utility reimbursement issued to.

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

BHHC Policy
The financial hardship rules described below will apply in this jurisdiction because the PHA has established a minimum rent of $50.00.

Overview

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

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

BHHC 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:

a) implementation of assistance, if approved, or,
b) 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.

BHHC Policy
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent 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.

BHHC 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 PHA.

BHHC Policy
The PHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.
The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

BHHC Policy
BHHC 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.

BHHC may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

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

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

BHHC 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.
BHHC will make the determination of hardship within 30 calendar days.

No Financial Hardship

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

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

BHHC Policy

BHHC will require the family to repay the suspended amount within 30 calendar days of BHHC's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

BHHC Policy

BHHC will enter into a repayment agreement in accordance with BHHC's repayment agreement policy (see Chapter 16).

Long-Term Hardship

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

BHHC 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. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.
For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]
On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].
See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]
The PHA must review its schedule of utility allowances each year. Between annual reviews, the PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective [PH Occ GB, p. 171].
The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

> **BHHC** Policy
> Unless BHHC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

Utility Allowance Reimbursement [24 CFR 982.514(b)]
Utility reimbursement occurs when any applicable utility allowances for tenant-paid utilities exceed the TTP. HUD permits the PHA to make the utility payments to the family or directly to the utility provider.

> **BHHC Policy**
> BHHC will make utility reimbursements to the family**.**

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

(1) Subtract the TTP from a maximum rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the maximum rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

BHHC Policy

Revised public housing maximum rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.

For policies related to the establishment of the public housing maximum rent see Chapter 16.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by the PHA is the amount the family pays.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

BHHC Policy

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.
BHHC will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

BHHC must provide sufficient information for families to make an informed choice. This information must include BHHC's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option.

However, if the family chose the flat rent for the previous year BHHC will be required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]
A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

BHHC Policy
Upon determination by BHHC that a financial hardship exists, BHHC will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate

BHHC Policy
BHHC considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Change in Flat Rents

BHHC Policy
Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [PH Occ GB, pp. 137-138].

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the 12 cumulative months of full (100 percent) and phase-in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

Flat Rents and Mixed Families [A&O FAQs]

Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.

If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated flat rent.

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 260.31[1]; and

[1] Text of 45 CFR 260.31 follows (next page).

(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 (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and 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 (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as 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
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

24 CFR 960.255 Self-sufficiency incentive–Disallowance of increase in annual income.

(a) *Definitions*. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person 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 public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, 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 PHA 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.

(b) *Disallowance of increase in annual income*.

(1) *Initial twelve month exclusion*. During the cumulative twelve month period beginning on the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income (as defined in 5.609 of this title) of a qualified family any increase in income of the family member 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 of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA 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 as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(c) *Inapplicability to admission*. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

(d) *Individual Savings Accounts*. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;

(5) At least annually the PHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA

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 960.259, 24 CFR 5.230]

INTRODUCTION
The PHA 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 tenants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA 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 established by the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION
[24 CFR 960.259, 24 CFR 5.230]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the PHA's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the PHA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

BHHC Policy

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

Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

Up-front Income Verification (UIV) using a non-HUD system

Written Third-Party Verification (may be provided by applicant or resident)

Written Third-Party Verification Form

Third-party Oral Verification

Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

BHHC 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 BHHC. The documents must not be damaged, altered or in any way illegible.

BHHC 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 PHA would accept the most recent report.

Print-outs from web pages are considered original documents.

BHHC 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 BHHC and must be signed in the presence of a BHHC representative or BHHC notary public.

File Documentation

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

BHHC Policy

BHHC 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 BHHC is unable to obtain 3rd (third) party verification, BHHC will document in the family file the reason that third-party verification was not available and will place a photocopy of the original document(s) in the family file. [24 CFR 960.259(c)(1); Notice PIH 2010-19].

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

Up-front income verification (UIV) refers to the PHA'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 PHA.

There may be legitimate differences between the information provided by the family and UIV generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing process. (For more on UIV and income projection, see section 6-I.C.)

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

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for resident families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income Report

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

BHHC Policy

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

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

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

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

When BHHC determines through income reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

BHHC Policy

BHHC will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's Enterprise Income Verification (EIV) System

EIV Discrepancy Reports

The EIV discrepancy report is a tool for identifying families that may have concealed or underreported income. Data in the discrepancy reports represents income for past reporting periods and may be between 6 and 30 months old at the time reports are generated.
Families that have not concealed or underreported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.
Income discrepancies may be identified through use of the EIV "Income Discrepancy Report" or review of the discrepancy tab for the individual family.

BHHC Policy

BHHC will generate the Income Discrepancy Report at least once every 6 months.

When BHHC determines that a resident appearing on the Income Discrepancy Report has not concealed or underreported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed.

BHHC will review the EIV discrepancy tab during processing of annual and interim reexaminations.

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

When BHHC determines through file review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

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

Definition of Substantial Difference

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available," HUD recommends using $200 per month as the threshold for a substantial difference. BHHC will use the $200 per month as the threshold for a substantial difference.

See Chapter 6 for the PHA's policies on the definition of substantial difference and the use of EIV to project annual income and for the PHA's threshold for substantial difference.

When No Substantial Difference Exists
If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

When a Substantial Difference Exists [24 CFR 5.236(b)]
When there is a substantial difference between the information provided by the EIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

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

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

> BHHC Policy
> BHHC will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. BHHC will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When BHHC determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, BHHC will correct the error promptly.

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

Reasonable Effort and Timing

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

Written Third-Party Verification [Notice PIH 2010-19]
Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit

verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

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

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

BHHC Policy
Third-party documents provided by the family must be dated within sixty (60) days of the BHHC's request date.

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

As verification of earned income, BHHC will request pay stubs covering the sixty (60) day period prior to BHHC's request date.

Written Third-Party Verification Form

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

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

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

BHHC Policy
BHHC will send third-party verification forms directly to the third party.
Third-party verification forms will be sent when third-party verification documents are unavailable or if the provided third party verification is rejected by BHHC.

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

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

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

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

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

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

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

When Third-Party Verification is Not Required [Notice PIH 2010-19]
Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

BHHC Policy
If the family cannot provide original documents, BHHC will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.
The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

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

BHHC Policy
BHHC will not require third-party verification when the documentation is a legal document.

Imputed Assets
HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value.

BHHC Policy
BHHC will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

7-I.E. SELF-CERTIFICATION

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

When the PHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

BHHC 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 BHHC.
BHHC 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 BHHC 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 BHHC representative or BHHC notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

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

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

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

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

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

An original SSN card issued by the Social Security Administration (SSA)

An original SSA-issued document, which contains the name and SSN of the individual

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual,

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

BHHC Policy

The PHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to BHHC within 90 days.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

BHHC Policy

BHHC will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

BHHC Policy

BHHC will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may at its discretion remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

BHHC Policy

Once an individual's status is classified as "verified" in HUD's EIV system, BHHC will remove and destroy copies of documentation accepted as evidence of social security numbers. In compliance with Notice PIH 2012-10.

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.

BHHC Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, BHHC 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 tenants 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.

BHHC 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

BHHC Policy

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

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

In the case of a common law marriage, the couple must demonstrate that they hold themselves 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

BHHC Policy

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

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

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

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

Absence of Adult Member

BHHC Policy

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

Foster Children and Foster Adults

BHHC 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

BHHC Policy

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

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident'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:

- 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 receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

BHHC Policy
For family members claiming disability who receive SSI or other disability payments from the SSA, BHHC will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available. If documentation from HUD's EIV System is not available, BHHC 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), BHHC 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 resident receives the benefit verification letter they will be required to provide it to BHHC.

Family Members Not Receiving SSA Disability Benefits
Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

BHHC Policy
For family members claiming disability who do not receive SSI or other disability payments 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. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA 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 18 or older and by a guardian for minors.

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

BHHC Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless BHHC 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 7-2 at the end of this chapter summarizes documents family members must provide.

PHA Verification

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

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

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant.

BHHC Policy
BHHC offers a preference for working families, described in Section 4-III.B.

BHHC may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 30 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

BHHC may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP 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 PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME Tips

BHHC 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

BHHC 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.

BHHC 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 BHHC 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, BHHC 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 BHHC 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 PIH Notice 2012-10

BHHC Policy

To verify the SS/SSI benefits of applicants, BHHC will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), BHHC 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.socialsecurity.gov. Once the applicant has received the benefit verification letter they will be required to provide it to BHHC.

To verify the SS/SSI benefits of residents, BHHC will obtain information about social security/SSI benefits through HUD Enterprise Income Verification (EIV) system. If benefit information is not available in HUD systems, BHHC 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) BHHC 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.socialsecurity.gov. Once the resident has received the benefit verification letter they will be required to provide it to BHHC.

7-III.D. ALIMONY OR CHILD SUPPORT

BHHC Policy

The way BHHC 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, BHHC 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

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation.

BHHC Policy
BHHC will verify the value of assets disposed of only if:

BHHC does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

BHHC 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, BHHC 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

BHHC Policy

BHHC will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, BHHC 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, BHHC 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, BHHC 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 PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA 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.

BHHC Policy

BHHC will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, BHHC will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

BHHC Policy

BHHC 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.

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 PHA 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 PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction
See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

BHHC Policy
BHHC 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 BHHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. BHHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to

costs anticipated to be incurred during the upcoming 12 months

In addition, BHHC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will 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 PHA'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.

BHHC 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

BHHC Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, BHHC 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-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

BHHC Policy

BHHC 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 is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

BHHC Policy

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party 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 or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, BHHC must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

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 PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

BHHC Policy
BHHC 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-II.E.).

If third-party 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.

BHHC 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. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

BHHC 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 PHA 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.

BHHC Policy

Information to be Gathered
BHHC 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; BHHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases BHHC will request verification from the agency of the member's job seeking efforts to date and require the family to submit to BHHC any reports provided to the other agency.

In the event third-party verification is not available, BHHC will provide the family with a form on which the family member must record job search efforts. BHHC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education
BHHC 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
BHHC 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.

BHHC Policy
BHHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

BHHC 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).

BHHC 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.

BHHC Policy
The actual costs the family incurs will be compared with BHHC'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, BHHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

BHHC utilizes the Enterprise Income Verification (EIV) system (formally UIV) to validate income information reported by participants. The EIV system electronically utilizes independent sources, such as those maintained by the Social Security Administration, State Wage Information Collection Agencies, and private vendors, to confirm income figures provided at application and re-certification. Knowingly underreporting income may result in the assessment of back charges, termination of assistance, and/or prosecution through the District Attorney's office.

No applicant family shall be admitted to public housing without thorough verification of income, family composition and all other factors pertaining to the applicant's eligibility, rent, unit size and type, priority rating, etc. The same types of verifications are required to process any interim or regular re-examination for public housing residents. Complete and accurate verification documentation shall be maintained for each applicant and resident. Such documentation may include, but is not limited to, the following:

1. Letters or other statements from employers and other pertinent sources giving authoritative information concerning all items and amounts of income and deduction, together with other eligibility and preference determinations.

2. Verification forms supplied by the Authority and returned properly completed by employers, public welfare agencies, etc.

3. Originals, photocopies, or carbon copies of documents in the applicant's possession which substantiates his/her statements, or a brief summary of pertinent contents of such documents signed and dated by the staff member who viewed them.

4. Statements from self-employed persons, and from persons whose earnings are irregular, such as salesmen, etc., sworn to before a Notary, setting forth gross receipts, itemized expenses and net income (expenses incurred for business expansion or amortization of capital indebtedness are to be included in net income).

5. Memoranda of verification data obtained by personal interview, home visit, telephone, or other means, with source, date received, name and title of person receiving the information clearly indicated, and a summary of information received.

6. Certified birth certificates, or other substantial proof of age, to support claims to the various entitlements in these policies for each member of the household.

7. Verification of evidence of citizenship and/or eligible immigration status or a citizen of the Republic of Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. However people in the last category are not entitled to housing assistance in preference to any United States citizen or national resident within Guam.

8. Social Security Card or legal documents verifying the Social Security number for the applicant and each member of the applicant's household.

9. Proof of disability, or of physical impairment, if necessary to determine the applicant's eligibility as a family or entitlement consideration under the criteria established in these policies, provided in written form by the appropriate government agency.

10. Statements from landlords, family social workers, parole officers, court records, drug treatment centers, clinics, physicians, or police departments, where warranted in individual cases.

11. Receipts for utility services.

12. In the case of a homeless family, verification consists of certification, in a form prescribed by the Secretary of the Department of Housing and Urban Development or as developed by the BHHC, of this status from a public or private facility that provides shelter for such individuals, or from the local police department or social services agency.

13. BHHC shall require the family head, head of household, members 18 years or older, or legally appointed designee to execute a HUD-approved release and consent authorizing any depository or private source of income, or any Federal, State, or local agency to furnish or release to the BHHC and to HUD such information as the BHHC or HUD determines to be necessary.

    Because eligibility for Federal housing assistance is not based on a "declaration system" but upon verification of actual income and family circumstances, BHHC is not limited to verification of data supplied by applicants or residents. Failure of an applicant to cooperate with the BHHC in obtaining verifications will result in the application being declared incomplete and inactive. A resident who fails to cooperate or to release information may be evicted. In addition, interim rent reductions will not be made for residents until after receipt of all required verifications. In consideration of the privacy rights of residents and applicants, BHHC shall restrict its requests to those matters of income, family composition and other family circumstances which are related to eligibility, rent, unit size and type, admission priority rating, or other lawful determinations made by the BHHC. If the verified data as listed in this policy are not more than one hundred and twenty (120) days old at the time an applicant is selected for admission, the data may be considered as reflecting the applicant's family's status at the time of admission.

BHHC must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

Exhibit 7-1: Excerpt from HUD Verification Guidance Notice (PIH 2010-19 (HA))

Level	Verification Technique	Ranking
6	**Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system - (not available for income verification of applicants)	**Highest** (Mandatory)
5	**Upfront Income Verification** (UIV) using non-HUD Systems	**Highest** (Optional)
4	Written Third Party Verification	**High** (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support dispute)
3	**Written Third Party Verification Form**	**Medium-Low** (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	**Oral Third Party Verification**	**Low** (Mandatory if written third-party verification is not available)
1	**Tenant Declaration**	**Low** (Use as a last resort when unable to obtain any type of third-party verification)

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 agreement with State Wage Information Collection Agency (SWICA) to obtain wage information electronically via mail or fax or in person Accounts with private vendor agencies, such as The Work Number or Equifax to obtain wage and salary information. Use of HUD system when available.	The PHA mails, faxes or e-mails verification form directly to the employer or source to obtain wage information. The PHA may have the tenant sign a Request for Earnings Statement. Upon the tenant's request, the PHA mails the form to SSA and the statement will be mailed to the address on the form.	In the event the independent source does not return the PHA's verification of employment form in a timely manner, the PHA may contact the independent source by telephone or in person to request additional information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (Hint: Request the most recent three consecutive pay stubs). If employed by the same employer for two months or more, W-2 forms may be used for the two years. Note: The PHA must document in the tenant file why third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant declaring annual income from earnings. Note: The PHA must document in the tenant file why third party verification was not available.
Verification of Employment Income. The PHA should always obtain as much information as possible about the employment, including the [illegible] from the date [illegible] pay, [illegible] pay, [illegible] pay,

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 a source identified by the family to obtain income information	The PHA may call a source provided by the family to obtain income information	The PHA may review documents in the family file, such as bank statements or invoices and letters from customers, that may be used to verify self-employment income. Note: The PHA must document in the family file the reason third party verification was not obtained	The PHA may accept a self-declaration and all documentation in the family file. The family's certification must be made under penalty of perjury. Note: The PHA must document in the family file the reason third party verification was not available
Verification of Self-Employment Income: Typically, there is a range of PHA tools available for third party verification of self-employment income. When third party verification cannot be made, the PHA must always require a family member to sign a declaration that includes a perjury statement.					
Social Security/ SSI	Use of HUD's Tenant Assessment System (TASS) to obtain current benefit amount. Enterprise Income Verification (EIV) report	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's Tenant Assistance Bureau to obtain benefit amount. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may review original award notice or benefit letter. Note: The PHA must document in the tenant file the reason third party verification was not available	The PHA may accept a self-declaration and all documentation in the family file. The family's certification must be made under penalty of perjury. Note: The PHA must document in the tenant file the reason third party verification was not available
Welfare Benefits	Use of HUD's Tenant Assessment System (TASS) to obtain current benefit amount. Enterprise Income Verification (EIV) report	The PHA mails or faxes 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 original award notice or benefit letter. Contact the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file. The PHA must document why third party verification was not available.	The PHA may accept a self-declaration and all documentation in the family file. Contact the tenant for other current 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 Automated 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 Third Party form directly to the Local Child Support Enforcement Agency or child support payee to obtain current child support amount and payment status.	The PHA may call the Local Child Support Enforcement Agency or child support payee to obtain current and support payment status.	The PHA may review an original or faxed 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 why 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 automated matching agreements with State Wage Information Collection Agency to obtain unemployment compensation information electronically, by mail or fax or in person Use of IVES systems, when available.	The PHA mails, faxes or e-mails a Third Party 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 unemployment benefit amount.	The PHA may review an original or faxed 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 why third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pension	Use of automated matching agreements with 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 Third Party form directly to the pension provider to obtain pension information	The PHA may call the pension provider to obtain current pension amount.	The PHA may review an original or faxed award or benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file why third party verification was not available	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amount. **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 financial institutions and other income information electronically, by mail or in person	The PHA mails, faxes, or emails a third party verification form directly to the source to obtain asset and asset income information	The PHA may call a financial institution to verify asset and 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 statement of 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 employment and SSA information the PHA should use this information as part of the verification process. Failure to do so may result in disallowed costs during a REM review.	Note: The independent source must send the form directly to the PHA. Agency The tenant should not have any documents to give to the independent source	The PHA should document in the tenant file, the date and time of the telephone call, the name and title of the person the PHA verifies the current income		The PHA should use this verification method 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.)

Exhibit 7-2: Summary of Documentation Requirements for Noncitizens

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- **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.

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Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

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All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

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- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - "Admitted as a Refugee Pursuant to Section 207"
  - "Section 208" or "Asylum"
  - "Section 243(h)" or "Deportation stayed by Attorney General"
  - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"

</td><td>

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

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<tr><td>

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

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Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

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- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

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Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the PHA's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes the PHA's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as the PHA's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

BHHC Policy

After unit acceptance but prior to occupancy, a BHHC representative will provide a lease orientation to the family. The head of household or spouse is required to attend.

Orientation Agenda

BHHC Policy

When families attend the lease orientation, they will be provided with:

A copy of the Lease and Attachments

A copy of the PHA's grievance procedure

A copy of the house rules

A copy of the PHA's schedule of maintenance charges

A copy of the pamphlet *Protect Your Family From Lead in Your Home*

A copy of "Is Fraud Worth It?" (Form HUD-1140-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

A copy of "What you Should Know about EIV," a guide to the Enterprise Income Verification(EIV) system published by HUD as an attachment to Notice PIH 2010-19

A copy of HUD Form -52675 *"Debt Owed to Public Housing Agencies and Terminations Notice"*

Information about the protections afforded by the Violence against Women Act of 2005(VAWA) to victims of domestic violence, dating violence and stalking (see section 16-VII.C)

Information on Civil Rights Requirements

Information on Reasonable Accommodation Notice

Topics to be discussed will include:

Applicable deposits and other charges

Unit maintenance and work orders

The PHA's reporting requirements

Explanation of occupancy forms

Community service requirements

Family choice of rent

Review and explanation of lease provisions, including the ***Final Ruing*** in relation to the VAWA (Violence against Women Act of 2005) Protection.

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

BHHC Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and BHHC will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to BHHC assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the PHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The PHA may modify its lease from time to time. However, the PHA must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The PHA must also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

BHHC Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

BHHC Policy

When BHHC proposes to modify or revise schedules of special charges or rules and regulations, BHHC will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

BHHC Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and BHHC will be required to initial and date the change.

If a new household member is approved by BHHC to reside in the unit, the person's name and birth date will be added to the lease. The head of household and BHHC will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

BHHC Policy

Residents must pay a security deposit to BHHC at the time of admission. The amount of the security deposit will be equal to the family's total tenant payment at the time of move-in, and must be paid in full prior to occupancy.

BHHC will hold the security deposit for the period the family occupies the unit. BHHC will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, BHHC will refund to the resident the amount of the security deposit (including interest earned on the security deposit), less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

BHHC will provide the resident with a written list of any charges against the security deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged, BHHC will provide a meeting to discuss the charges.

If the resident transfers to another unit, BHHC will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

BHHC Policy

The tenant rent is due and payable at BHHC -designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, BHHC will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BHHC Policy

If the family fails to pay their rent by the fifth day of the month, and BHHC has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of $25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, BHHC may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $25.00 will be charged to the family. The fee will be due and payable 14 days after billing.

Excess Utility Charges

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BHHC Policy

When applicable, families will be charged for excess utility usage according to BHHC current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, BHHC may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

BHHC Policy

When applicable, families will be charged for maintenance and/or damages according to BHHC's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, BHHC may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD rules require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA Policy. This part contains the PHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the resident, must be provided to the tenant and be kept in the resident file.

BHHC Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

BHHC Policy

When applicable, BHHC will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Annual Inspections

The PHA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)]. Under the Public Housing Assessment System (PHAS), HUD's physical condition inspections do not relieve the PHA of this responsibility to inspect its units [24 CFR 902.20(d)].

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

BHHC Policy

Supervisory quality control inspections will be conducted in accordance with the PHA's maintenance plan.

Special Inspections

BHHC Policy

BHHC staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

Other Inspections

BHHC Policy

Building exteriors, grounds, common areas and systems will be inspected according to the PHA's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

BHHC Policy

BHHC will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for BHHC to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

BHHC Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify BHHC at least 24 hours prior to the scheduled inspection. BHHC will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. BHHC may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

BHHC Policy

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

8-II.D. INSPECTION RESULTS

The PHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

BHHC Policy

When conditions in the unit are hazardous to life, health, or safety, BHHC will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

Non-emergency Repairs

BHHC Policy

BHHC will correct non-life threatening health and safety defects within 15 business days of the inspection date. If BHHC is unable to make repairs within that period due to circumstances beyond BHHC ‘s control (e.g. required parts or services are not available, weather conditions, etc.) BHHC will notify the family of an estimated date of completion.

The family must allow BHHC access to the unit to make repairs.

Resident-Caused Damages

BHHC Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

BHHC Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, BHHC will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit’s smoke detector. Only one warning will be given. A second incidence will result in lease termination.

Chapter 9

REEXAMINATIONS
[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

The PHA is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. PHAs must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. 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.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

The PHA is required to obtain information needed to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the PHA's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

BHHC Policy

Generally, BHHC will schedule annual reexaminations to coincide with the family's anniversary date. BHHC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, BHHC will perform a new annual reexamination, and the anniversary date will be changed.

BHHC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However PHAs should give tenants who were not provided the opportunity to complete Form HUD-92006 at this time [Notice PIH 2009-36]

BHHC Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact BHHC to request a reasonable accommodation.

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 BHHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview BHHC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without BHHC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

BHHC 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 BHHC-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the 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 will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

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 re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

BHHC Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

BHHC Policy

In general, an *increase* in the tenant 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 BHHC 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 BHHC, 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 underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If BHHC 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 BHHC.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by BHHC by the date specified, and this delay prevents BHHC from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the PHA must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

BHHC Policy

For families paying flat rents, BHHC will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

BHHC Policy

In conducting full reexaminations for families paying flat rents, BHHC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

BHHC Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, BHHC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

BHHC Policy

Generally, the family will not be required to attend an interview for an annual update. However, if BHHC determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to BHHC. The family will have 10 business days to submit the required information to BHHC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. BHHC will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, BHHC will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to BHHC.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

BHHC Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time.

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 change. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

BHHC Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

BHHC 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 PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 966.4(a)(1)(v)].

BHHC Policy

The family must inform BHHC of the birth, adoption or court-awarded custody of a child within 10 business 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 PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for handicapped persons.

BHHC Policy

Families must request BHHC approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12 month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by BHHC prior to the individual moving into the unit.

BHHC will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in Chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by BHHC. Exceptions will be made on a case-by-case basis.

BHHC will not approve the addition of a new family or household member unless the individual meets BHHC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II)

If BHHC determines that an individual does not meet BHHC's eligibility criteria as defined in Chapter 3, BHHC 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.

BHHC 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

BHHC Policy

If a family member ceases to reside in the unit, the family must inform BHHC within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform BHHC within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA 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 PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

BHHC Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

PHA-initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

BHHC Policy

BHHC will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), BHHC will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, BHHC will conduct an interim reexamination 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), BHHC 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, BHHC will conduct an interim reexamination.

BHHC 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 PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(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 960.257(b)].

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

BHHC Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

BHHC will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, BHHC will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The PHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

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.

BHHC Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, BHHC 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 tenant rent, BHHC will conduct an interim reexamination.

See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

BHHC Policy

The family may notify BHHC of changes either orally or in writing. If the family provides oral notice, BHHC may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if BHHC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, BHHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from BHHC. This time frame may be extended for good cause with BHHC approval. BHHC will accept required documentation by mail, by fax, or in person.

Effective Dates

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

BHHC Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. 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.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

BHHC Policy

Unless BHHC is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

BHHC Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, BHHC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, BHHC may discover errors made by BHHC. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the PHA's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the PHA’s pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

PHAs have the authority to regulate assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

BHHC Policy

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and BHHC approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a PHA may have to regulate assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

BHHC Policy

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, BHHC will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If BHHC determines that no such accommodation can be made, BHHC may withdraw the approval of a particular assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

BHHC Policy

Pets must be registered with BHHC before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Refusal to Register Pets

BHHC Policy

BHHC will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

BHHC reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If BHHC refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of BHHC's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with BHHC's grievance procedures.

Pet Agreement

BHHC Policy

Residents who have been approved to have a pet must enter into a pet agreement with BHHC, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of BHHC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with BHHC's pet policy and applicable house rules may result in the withdrawal of BHHC approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

PHA's may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

BHHC Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles

Rodents

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

Pet Restrictions

BHHC Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, Rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

BHHC Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Other Requirements

BHHC Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

BHHC Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

BHHC Policy

With the exception of common areas as described in the previous policy, BHHC has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, BHHC has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

BHHC Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by BHHC.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

BHHC Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

BHHC Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

BHHC Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage BHHC property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

BHHC Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify BHHC and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

BHHC Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by BHHC.

Pet Rule Violations

BHHC Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

BHHC Policy

If the pet owner and BHHC are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by BHHC,

BHHC may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for BHHCs determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

BHHC Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if BHHC after reasonable efforts cannot contact the responsible party, BHHC may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

BHHC Policy

BHHC may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

BHHC Policy

BHHC will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for BHHC to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes the PHA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

BHHC Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is the higher of the family's total tenant payment or $50.00, and must be paid in full before the pet is brought on the premises.

Refund of Deposit [24 CFR 5.318(d)(1)]

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

BHHC Policy

BHHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

BHHC will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, BHHC will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

BHHC Policy

A Pet Damage deposit of 300.00 will be charged for all residents in general occupancy developments and/or scatter sit housing; this deposit shall be considered a reasonable expenses incurred by BHHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

BHHC Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, BHHC may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the PHA's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

BHHC Policy

Pet owners are required to pay a pet deposit of $300.00 in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

BHHC Policy

BHHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

BHHC will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, BHHC will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

PHAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

BHHC Policy

BHHC requires pet owners to pay a non-refundable nominal pet fee.

This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

Landscaping costs

Pest control costs

Insurance costs

Clean-up costs

The pet fee of $10.00 will be billed on a monthly basis, and payment will be due 14 calendar days after billing.

Charges for the non-refundable pet fee are not part of rent payable by the resident.

10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

BHHC Policy

All reasonable expenses incurred by BHHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

BHHC Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all non-exempt adults living in public housing.

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

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: PHA Implementation of Community Service. This part provides PHA policy regarding PHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the PHA Plan must contain a statement of the how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the PHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

BHHC Policy

An individual may not skip a month and then double up the following month, unless special circumstances warrant it. BHHC will make the determination of whether to permit a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify BHHC in writing within 5 business days of the circumstances becoming known. BHHC will review the request and notify the individual, in writing, of its determination within 10 business days. BHHC may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b)]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

BHHC Policy

BHHC will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet the requirements for being exempted from having to engage in a work activity under the state program funded under "Part A of Title IV of the Social Security Act", or under any other welfare program of the state in which BHHC is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or service under a state program funded under "Part A of Title IV of the Social Security Act", or under any other welfare program of the state in which BHHC is located, including a state-administered welfare-to-

work program, and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service [PH Occ GB, p. 174]

Community service is the performance of voluntary work or duties that are a public benefit and that serve to improve the quality of life, enhance resident self sufficiency, or increase resident self responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food banks (distributing either donated or community foods), or clothes closets (distributing donated clothing) etc.
- Nonprofit organizations serving PHA residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, Police Assistance League (PAL), organized children recreation, mentoring or education programs, Big Brothers or Big Sisters, garden center, community clean-up programs, beautification programs, other youth or senior organizations
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, Senior Meals Program, Senior Centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special needs populations or missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work dose not alter the PHAs insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parents may volunteer

PHAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

NOTE: Political activity is excluded for purposes of eligible community service activities.

BHHC Policy

BHHC will accept community services at profit motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work as eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b)]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs and/or activities include, but not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skill training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

Notification Requirements [24 CFR 960.605(c)(2)]

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition the family must sign a certification, Attachment A of Notice PIH 2009-48, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirements will result in nonrenewal of their lease.

BHHC Policy

BHHC will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, BHHC will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The PHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

BHHC Policy

Where the lease term does not coincide with the effective date of the annual reexamination, BHHC will change the effective date of the annual reexamination to coincide with the lease term. In making this change, BHHC will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

BHHC Policy

At least 60 days prior to lease renewal, BHHC will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or BHHC has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, BHHC will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The PHA must review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

BHHC Policy

Approximately 60 days prior to the end of the lease term, BHHC will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit BHHC required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or BHHC approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status between Annual Determinations

BHHC Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to BHHC within 10 business days.

Within 10 business days of a family reporting such a change, or BHHC determining such a change is necessary, BHHC will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to BHHC within 10 business days. Any claim of exemption will be verified by BHHC in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or BHHC determining such a change is necessary, BHHC will provide the family written notice that the family member is no longer subject to the community service requirement, if BHHC is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

BHHC Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. BHHC will provide a completed copy to the family and will keep a copy in the tenant file.

BHHC will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

BHHC makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with BHHC's determination, s/he can dispute the decision through BHHC's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice 2009-48]

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide certification to the PHA, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

BHHC Policy

If anyone in the family is subject to the community service requirement, BHHC will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to BHHC, upon request.

If BHHC has reasonable cause to believe that the certification provided by the family is false or fraudulent, BHHC has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, the PHA may not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement with the PHA. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c)].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If the PHA determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), the PHA must notify the tenant of this determination.

The notice to the tenant must briefly describe the noncompliance. The notice must state that the PHA will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with the PHA to cure the noncompliance, or the family provides written assurance satisfactory to the PHA that the tenant or other noncompliant resident no longer resides in the unit.

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

BHHC Policy

The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before BHHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, BHHC will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, the PHA must terminate tenancy of the entire family, according to the PHA's lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

BHHC Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before BHHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

Enforcement Documentation [Notice PIH 2009-48]

PHAs are required to initiate due process (see 24 CFR 966.53(c)) against households failing to comply with lease requirements including the community service and self sufficiency requirements.

When initiating due process, the PHA must take the following procedural safeguards;

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
- Right of the tenant to be represented by counsel
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have
- A decision on merit

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

PHA Implementation of Community Service

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

BHHC Policy

BHHC will notify its insurance company if residents will be performing community service at BHHC. In addition, BHHC will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, BHHC will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

PHA Program Design

The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

BHHC Policy

BHHC will attempt to provide the broadest choice possible to residents as they choose community service activities.

BHHC's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. BHHC will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

BHHC will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, BHHC will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in ***BHHC Annual Plan.***

BHHC will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When BHHC has a ROSS program, a ROSS Service Coordinator, or an FSS program: BHHC will coordinate individual training and service plans (ITSPs) with the community service requirements. Regular meetings with BHHC Program Coordinators will satisfy community service activities and BHHC Program Coordinators will verify community service hours within individual monthly logs.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – community volunteer work which includes, but is not limited to work at:

- Local public or nonprofit institutions such as but not limited to: schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospice, nursing homes, recreation center, senior center, adult day care programs/center, homeless shelter, indigent feeding program, food banks (distributing either donated or community foods), cooperative food bank, or clothes closets (distributing donated clothing) etc..
- Work with a nonprofit organization such as: organizations serving PHA residents or their children such as:, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, Senior Meals Program, Senior Centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods or performing arts
- PHA housing to improve grounds: work at the housing authority to help with litter control; or provide gardens (so long as the work dose not alter the PHA's insurance coverage); working through a resident organization to help other residents with problems; serving on the Resident Advisory Board; caring for children of other residents so they may volunteer

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skill training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any activity required by the Department of Public Assistance under Temporary Assistance for Needy Families (TANF)
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is engaged in work activities, working at least 30 hours per week
- Is able to meet requirements under a state program funded under part A of Title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits or services under a state program funded under part A of Title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such programs.

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. An individual may not skip a month and then double up the following month, unless special circumstances warrant special consideration. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.
3. Family obligation:
    - At lease execution, all adult members (18 or older) of a public housing resident family must:
        - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
        - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
    - Upon written notice from the PHA, non-exempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
    - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, as a condition of continued occupancy.
4. Change in exempt status:
    - If, during the twelve (12) month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation of exempt status.
    - If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the PHA will:
   - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
   - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.
4. Noncompliance of family member:
   - At least thirty(30) days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or non-exempt status and compliance of family members;
     - The PHA will secure a certification of compliance from nonexempt family members (Attachment B)
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit;
   - The family may use the PHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident	Date
Resident	Date
Resident	Date
Resident	Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) 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 has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable 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 twelve months.

EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the PHA's community service requirement for the following reason:

❒ 62 years of age or older. *(Documentation of age in file)*

❒ Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement. (*Documentation of HUD definition of disability in file)*

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

_____ _____
Signature of Family Member Date

❒ Is the primary caretaker of such an individual in the above category; *(Documentation in file)*

❒ Is working at least 30 hours per week; *(Employment verification in file)*

❒ Is able to meet requirements under a state program funded under part A of Title IV of the Social Security Act, or under any welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program. (*Documentation in file).*

❒ Is a member of a family receiving assistance, benefits or services under a state program funded under part A of Title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program, and has not been found by the state or other administering entity to be in noncompliance with such program. *(Documentation in file)*

_____ _____
Signature of Family Member Date

_____ _____
Signature of PHA Official Date

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

This chapter describes HUD regulations and PHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: PHA Required Transfers. This part describes types of transfers that may be required by the PHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The PHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The PHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

BHHC Policy

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks. BHHC will provide temporary accommodations to the resident using its model unit and/or a hotel for emergency temporary transfers, if other housing is not available.

12-I.C. EMERGENCY TRANSFER PROCEDURES

BHHC Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, BHHC will provide temporary accommodations to the tenant by arranging for temporary lodging at its model unit and/or a hotel location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, BHHC will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant.

12-I.D. COSTS OF TRANSFER

BHHC Policy

BHHC will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions. BHHC will not bear the cost of temporary accommodations for residents were Emergency conditions are caused by the tenant.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

BHHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, BHHC will collect information from companies in the community that provide these services.

BHHC will reimburse the family for eligible out-of-pocket moving expenses up to BHHC established moving allowance.

PART II: PHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF PHA REQUIRED TRANSFERS

BHHC Policy

The types of transfers that may be required by BHHC, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the PHA are mandatory for the tenant. Notice PIH 2011-33 allows PHAs with a work preference to include work activities as a condition of continued occupancy at a public housing development. However, failure to meet the work requirement is not grounds for termination of assistance. In such cases the PHA must instead transfer the resident to a development without a work requirement.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

BHHC Policy

When a non-accessible unit becomes available, BHHC will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. BHHC may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

BHHC Policy

BHHC will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the PHA's occupancy standards as described in Section 5-I.B.

BHHC may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on BHHC's occupancy standards, when BHHC determines there is a need for the transfer.

BHHC may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by BHHC that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the PHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

BHHC Policy

BHHC will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. BHHC's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

BHHC Policy

BHHC will bear the reasonable costs of transfers that BHHC requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

BHHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, BHHC will collect information from companies in the community that provide these services.

In accordance to BHHC's Procurement Policy if the moving expense is less than $1,000.00 only one quotation will be solicited if the price received is considered reasonable. If the moving expense is greater than $1,000.00 the small purchase procedures will be followed, No less than three offers shall be solicited. Quotes may be obtained orally, by telephone, or in writing as allowed by State Laws.

BHHC will reimburse the family for eligible out-of-pocket moving expenses up to the BHHC's established moving allowance.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the PHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

BHHC Policy

The types of requests for transfers that BHHC will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to BHHC's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by BHHC

BHHC will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at BHHC's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features

BHHC will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet the BHHC's definition of overcrowded, as long as the family meets the BHHC's occupancy standards for the requested size unit

When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation and public transportation is not adequate

Transfers requested by the tenant are considered optional for the tenant.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the PHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

BHHC Policy

Except where reasonable accommodation is being requested, or a residents request is being made in accordance to the '*Final Rule*' as it relates to VAWA in accordance with section 16-VII.D, BHHC will only consider transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety or residents and staff

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the BHHC's advantage to make the transfer. Exceptions may also be made when BHHC determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

BHHC Policy

When a family transfers from one unit to another, BHHC will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF TRANSFER

BHHC Policy

The resident will bear all of the costs of transfer s/he requests. However, in cases of documented financial hardship, BHHC will consider assuming the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

BHHC Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, BHHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, BHHC will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

BHHC will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

BHHC will respond within ten (10) business days of the submission of the family's request. If BHHC denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

BHHC Policy

BHHC will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other BHHC-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, BHHC may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow BHHC to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

BHHC Policy

Residents will receive one offer of a transfer.

When the transfer is required by BHHC, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

BHHC Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to BHHC's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

BHHC will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

BHHC Policy

If subject to deconcentration requirements, BHHC will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve BHHC's de-concentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

BHHC Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The PHA may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which a PHA can terminate a family's lease, and give PHAs authority to determine other reasons.

When determining PHA policy on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and PHA's termination of the lease. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the PHA places upon families who wish to terminate their lease.

Part II: Termination by PHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the PHA occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by PHA – Other Authorized Reasons. This part describes the PHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the PHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the project office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

BHHC Policy

If a family desires to move and terminate their tenancy with BHHC, they must give at least 30 calendar days advance written notice to BHHC of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control BHHC, at its discretion, may waive the 30 day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

PART II: TERMINATION BY PHA – MANDATORY

13-II.A. OVERVIEW

HUD requires the PHA to terminate the lease in certain circumstances. In other circumstances HUD requires the PHA to establish provisions for lease termination, but it is still a PHA option to determine, on a case-by-case basis, whether termination is warranted. For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The PHA must terminate the lease 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, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), 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.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c) and 24 CFR 960.259(a)(3), Notice PIH 2012-10]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security number of each household member and the documentation necessary to verify each Social Security Number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the family an opportunity to comply with the requirements within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

BHHC Policy

BHHC will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency family situations; if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The PHA must terminate the lease if the family fails to accept the PHA's offer of a lease revision to an existing lease, provided the PHA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to PHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The PHA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.H. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-10]

The PHA must immediately terminate program assistance for deceased singe member households.

BHHC Policy

BHHC will immediately terminate program assistance for deceased sole member households.

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must make policy decisions concerning these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore PHA policies are needed.

Definitions **[24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Immediate family member is defined in section 16-VII.B.
Other person under the tenant's control means that the person, although not staying as a guest in the unit is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located including common areas and grounds.

Stalking is defined in section 16-VII.B.

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.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

BHHC Policy

BHHC will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

BHHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

BHHC Policy

BHHC will terminate the lease when BHHC determines that a household member is illegally using a drug or BHHC determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

BHHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

BHHC Policy

BHHC will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including BHHC management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

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

BHHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

BHHC Policy

BHHC will terminate the lease if BHHC determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

BHHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

BHHC Policy

BHHC will terminate the lease if BHHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

BHHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic 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 [Pub.L. 109-162].

BHHC Policy

BHHC will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges; Three (3) late payments within a 12 month period shall constitute a repeated late payment.

Failure to comply with the Community Service Requirement as described in BHHC's Lease further discussion on this requirement can be found in Chapter 11 § I.B.

Failure to fulfill the following household obligations:

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

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by BHHC for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13 III.F. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, or stalking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005©(1)].

BHHC Policy

BHHC will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or 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.

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery after admission of facts that made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for BHHC to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by BHHC that such a dwelling unit is available

Failure to permit access to the unit by BHHC after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform BHHC of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of BHHC pet policy
If the family has breached the terms of a repayment agreement entered into with BHHC

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward BHHC personnel.

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

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

In making its decision to terminate the lease, BHHC will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13 III.F. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

BHHC Policy

The family must supply any information or certification requested by BHHC to verify that the family is living in the unit, or relating to family absence from the unit, including any BHHC-requested information or certification on the purposes of family absences.

The family must cooperate with BHHC for this purpose.

The family must promptly notify BHHC 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. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, BHHC will terminate the lease for other good cause.

Abandonment If the family appears to have vacated the unit without giving proper notice, BHHC will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, BHHC will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the PHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require PHAs to evict over-income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income-eligible.

BHHC Policy
BHHC will not evict or terminate the tenancies of families solely because they are over income.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used, by PHA policy, for any other reason where such a solution appears viable.

BHHC Policy
BHHC will consider requiring the tenant 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.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household 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 household member's current address upon BHHC request.

Repayment of Family Debts

BHHC Policy
If a family owes amounts to BHHC, as a condition of continued occupancy, BHHC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from BHHC of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 966.4]

For criminal activity, HUD permits the PHA to terminate the lease 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, and without satisfying the standard of proof used for a criminal conviction.

BHHC Policy

BHHC 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 966.4(l)(5)(vii)(B)]
Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

BHHC Policy

BHHC will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, or stalking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of BHHC's failure to terminate the tenancy

The effect of the BHHC's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

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 program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

BHHC Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, BHHC will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

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

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, the PHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BHHC Policy

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

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCEN OR STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2005 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence or stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation and confidentiality; see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

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 cause for termination of the tenancy or occupancy rights, or assistance to the victim, if the tenant or immediate family member of the tenant is the victim [24 CFR 5.2005(c)].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1)].

Limits on VAWA Protections [24 CFR 5.2005(d) and (e)]

While VAWA prohibits a PHA from using domestic violence, dating violence, or stalking as the cause for termination or eviction action against a public housing tenant who is the victim of the abuse, the protection it provides are not absolute. Specifically:

- VAWA does not limit the PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenants' tenancy is not terminated.

HUD regulations define ***actual and imminent threat*** to mean words, guesters, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c0 could result in death or serious bodily harm {24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat the factor(s) to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" **[24 CFR 5.2005(d)(3)].**

BHHC Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, BHHC will consider the following, and any other relevant factors:

- Whether the threat is towards an employee or tenant other than the victim of domestic violence, dating violence or stalking
- Whether the threat is a physical danger beyond speculative threat
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest BHHC's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

BHHC Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence or stalking claims protection under VAWAS, BHHC will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-VIID of this ACOP

BHHC reserves the right to waive the documentation requirements if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases BHHC will document the waiver in the individuals file.

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, " in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant 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 a tenant or lawful occupant" [24 CFR 5.2009(a)]. Moreover HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary and the authority supersedes any local, state, federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state or federal law for eviction, lease termination or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

BHHC Policy

BHHC will bifurcate a family's lease and terminate the tenancy of a family member if BHHC determines that the family member has committee criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining non-culpable family members.

In making its decision, BHHC will consider all credible evidence, including but not limited to a signed certification (form HUD-50066) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-VII.D. BHHC will also consider the factors in section 13.III.E. Upon such consideration BHHC may on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If BHHC chooses to bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary BHHC will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example BHHC may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence or stalking claims protection under VAWA, BHHC will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-VIID of this ACOP

Victim Documentation

BHHC Policy

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a tenant or immediate family member of the tenant'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, BHHC 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

One of the following:

A police or court record documenting the actual or threatened abuse
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 BHHC within 14 business days after the individual claiming victim status receives a request for such certification. BHHC, owner or manager will be aware that the delivery of the certification form to the tenant in response to an incident via mail may place the victim at risk, e.g., the abuser may monitor the mail. BHHC may require that the tenant come into the office to pick up the certification form and will work with tenants to make delivery arrangements that do not place the tenant at risk. This 14-day deadline may be extended at BHHC's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, BHHC may proceed with assistance termination.
BHHC also reserves the right to waive these victim verification requirements and accept only a self-certification from the victim if BHHC deems the victim's life to be in imminent danger.

Once a victim has completed certification requirements, BHHC will continue to assist the victim and may use bifurcation as a tool to remove a perpetrator from assistance. Owners will be notified of their legal obligation to continue housing the victim, while using lease bifurcation to remove the perpetrator from a unit. BHHC will make all best efforts to work with victims of domestic violence before terminating the victim's assistance.

In extreme circumstances when BHHC can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's (including the victim's) tenancy is not terminated, BHHC will bypass the standard process and proceed with the immediate termination of the family's assistance.

PHA Confidentiality Requirements

All information provided to the PHA 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.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. PHA policy determines when the PHA will conduct such checks.

BHHC Policy

BHHC will conduct criminal records checks when it has come to the attention of BHHC, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

BHHC may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the PHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

BHHC Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, BHHC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of BHHC notice, to dispute the accuracy and relevance of the information. If the family does not contact BHHC to dispute the information within that 10 business day period, BHHC will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]
Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 996.4(m)].

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for a drug-related criminal activity on or off the premises.

BHHC Policy

BHHC will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a statement of the protection against termination provided by the Violence against Women Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking (see section 16-VII.C). Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in Section 13-III.F and 16-VII.D..

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The PHA must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)
  - If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened
  - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
  - If any member of the household has been convicted of a felony
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

BHHC Policy

BHHC will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations the PHA will give 30 days' written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

BHHC Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's 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 the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the PHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

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 PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

BHHC Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, BHHC will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, BHHC will seek the assistance of the court to remove the family from the premises as per state and local law.

BHHC may not proceed with an eviction action if BHHC has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of [24 CFR 966.4(l)(3) and (m)].

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

BHHC Policy

A written record of every termination and/or eviction will be maintained by BHHC at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

Date and method of notifying the resident

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to PHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the PHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the PHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the PHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program.

Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants in the PHA grievance procedure [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

While the PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the PHA could make the informal hearing process available to applicants who wish to dispute other PHA actions that adversely affect them.

BHHC Policy

BHHC will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The PHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

BHHC Policy
A request for an informal hearing must be made in writing and delivered to BHHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHHC notification of denial of admission.

Except as provided in Section 3-III.F, BHHC will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

BHHC Policy
The informal hearing will be conducted by a person other than the one who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of BHHC.

The person conducting the informal hearing will make a recommendation to BHHC, but BHHC is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision [PH Occ GB, p. 58]

BHHC Policy

BHHC will notify the applicant of BHHC's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, BHHC will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice

The validity of grounds for denial of admission; if the grounds for denial are not specified in the regulations or in BHHC policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence; BHHC will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, BHHC will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, BHHC will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

BHHC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the PHA must consider such accommodations. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

BHHC Policy

BHHC will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide BHHC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to BHHC, of its decision. When the USCIS notifies BHHC of the decision, BHHC must notify the family of its right to request an informal hearing.

BHHC Policy

BHHC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]
After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer
The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence
The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

> BHHC Policy
> The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BHHC documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
The family must also be provided the opportunity to refute evidence relied upon by BHHC, and to confront and cross-examine all witnesses on whose testimony or information BHHC relies.

Representation and Interpretive Services
The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.
The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the PHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing
The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

> BHHC Policy
> BHHC will not provide a transcript of an audio taped informal hearing.

Hearing Decision

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status.

The PHA grievance procedure must be included in, or incorporated by reference in, the lease.

BHHC Policy
BHHC grievance procedure will be incorporated by reference in the tenant lease.

The PHA must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the PHA grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the PHA before adoption of any grievance procedure changes by the PHA.

BHHC Policy
Residents and resident organizations will have 30 calendar days from the date they are notified by BHHC of any proposed changes in BHHC grievance procedure, to submit written comments to BHHC.

BHHC must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel
  - Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits
- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of a PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, but may use expedited grievance procedures, as described in Section 14-III.E. below, to deal with the first two of the above three categories of lease terminations.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

BHHC Policy

BHHC is located in a due process state; families that are evicted for criminal activities that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of BHHC; Any violent or drug related criminal activity on or off such premises; Any criminal activity that resulted in felony conviction of a household member, are afforded the right to due process in the local courts under state law therefore BHHC may exclude its Grievance Procedures in any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of BHHC; Any violent or drug-related criminal activity on or off such premises; Any criminal activity that resulted in felony conviction of a household member; BHHC will not grant the opportunity for grievance hearings for these type of lease terminations. BHHC will evict through the state/local judicial eviction procedures.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

BHHC Policy
BHHC will accept requests for an informal settlement of a grievance in writing, to BHHC office within 10 business days of the grievable event. Within 10 business days of receipt of the request BHHC will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, BHHC will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in BHHC's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

BHHC Policy
BHHC will prepare a summary of the informal settlement within 5 business days; one copy to be given to the tenant and one copy to be retained in BHHC's tenant file.

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55]

Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer/panel, the hearing officer/panel may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing within a reasonable time after receipt of the summary of informal discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

BHHC Policy
The resident must submit a written request for a grievance hearing to BHHC within 5 business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, BHHC's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest BHHC's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

Escrow Deposits [24 CFR 966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent that the PHA claims is due, the family must pay an escrow deposit to the PHA. When a family is required to make an escrow deposit, the amount is the amount of rent the PHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer/panel.

The PHA must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless the PHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest the PHA's disposition of the grievance in any appropriate judicial proceeding.

BHHC Policy
BHHC will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

Scheduling of Hearings [24 CFR 966.55(f)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

BHHC Policy
Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and BHHC.

The PHA may wish to permit the tenant to request to reschedule a hearing for good cause.

BHHC Policy
The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, BHHC may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.55(g)]
The PHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA, or
- Any drug-related criminal activity on or near such premises

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.
The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

BHHC Policy
BHHC will not offer any expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of BHHC, or any drug-related criminal activity on or near such premises. BHHC will not grant the opportunity for expedited grievance hearings for these types of lease terminations. BHHC will evict through the state/local judicial eviction procedures.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.55(b)]

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person.

BHHC Policy

BHHC has appointed a Hearing Officer who has been selected in the manner required under the grievance procedure; BHHC Quality Control Coordinator will serve as the agency Hearing Officer. Efforts will be made to assure that the panel selected is not a friend, nor enemy; of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

BHHC will consult with resident organizations before a Resident Advisory Member is appointed as a hearing officer or hearing panel member. Comments from the resident organizations will be considered before making the appointment.

BHHC Policy

BHHC grievance hearings will be conducted by the Hearing Officer. BHHC has designated the following person to serve as it's hearing officer:

- BHHC Quality Control Coordinator

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

  BHHC Policy

  The tenant will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BHHC documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.

  BHHC Policy

  Hearings may be attended by the following applicable persons:

  A BHHC representative(s) and any witnesses for the BHHC

  The tenant and any witnesses for the tenant

  The tenant's counsel or other representative

  Any other person approved by BHHC as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by BHHC or project management, and to confront and cross-examine all witnesses upon whose testimony or information BHHC or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing [24 CFR 966.56(c)]

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

Failure to Appear [24 CFR 966.56(d)]

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed (5) five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer/panel: Provided, That a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

BHHC Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact BHHC within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(e), (f), and (g)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed [24 CFR 966.56(e)].

The hearing must be conducted informally by the hearing officer/panel. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR 966.56(f)].

BHHC Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, emails, text, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If BHHC fails to comply with the discovery requirements (providing the tenant with the opportunity to examine BHHC documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence offered by BHHC.

Other than the failure of BHHC to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require BHHC, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate [24 CFR 966.56(f)].

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(g)].

BHHC Policy
If the complainant would like BHHC to record the proceedings by audiotape, the request must be made to BHHC by 12:00 p.m. on the business day prior to the hearing.
BHHC will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL [24 CFR 966.57]

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the tenant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the PHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

BHHC Policy

In rendering a decision, the hearing officer will consider the following matters:

BHHC **Notice to the Family**: The hearing officer will determine if the reasons for BHHC's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with BHHC policy.

BHHC **Evidence to Support the PHA Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support BHHC's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and BHHC policies. If the grounds for termination are not specified in the regulations or in compliance with BHHC policies, then the decision of the BHHC will be overturned.

The hearing officer will issue a written decision to the family and BHHC no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant
Date, time and place of the hearing
Name of the hearing officer
Name of the PHA representative(s)
Name of family representative (if any)
Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the PHA to restore the family's status.

Procedures for Further Hearing

BHHC Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the BHHC will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on the PHA which must take the action, or refrain from taking the action cited in the decision unless the PHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the PHA

BHHC Policy

When BHHC considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the BHHC Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA 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 PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- **Provide applicants and residents with form HUD-52675, *"Debt Owed to PHAs and Terminations"***

- **Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file**

  BHHC Policy

  BHHC anticipates that the vast majority of families and BHHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

  To ensure that BHHC's program is administered effectively and according to the highest ethical and legal standards, BHHC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

  - BHHC will provide each applicant and resident with a copy of ***"Is Fraud Worth It"*** (form HUD-1141-OIG) which explains the types of actions a family must avoid and the penalties for program abuse.
  - BHHC will provide each applicant and resident with a copy of ***"What You Should Know about EIV"*** a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition BHHC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
  - BHHC will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. BHHC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
  - BHHC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

- BHHC staff will be required to review and explain the contents of all HUD- and BHHC-required forms prior to requesting family member signatures.
- BHHC 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 BHHC forms and form letters that request information from a family member.
- BHHC will provide each BHHC 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. **P*rogram 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.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

BHHC Policy

BHHC will employ a variety of methods to detect errors and program abuse, including:

- BHHC routinely will use available sources of up-front income verification, including HUD's EIV System, to compare with family-provided information.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- BHHC will compare family-reported income and expenditures to detect possible unreported income.
- At each annual reexamination, BHHC will conduct a Credit Check to verify any periodical payment(s) information provided by the family this information 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 PHA activities and notifies the PHA of errors and potential cases of program abuse.

BHHC Policy

BHHC 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 BHHC's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

BHHC Policy

BHHC will encourage staff, residents, and the public to report possible program abuse. BHHC will post and provide the following information

Report Abuse HUD Hotline

By Phone: Call toll free: 1-800-347-3735 - TDD: (202) 708-2451
By Fax: (202) 708-4829
By email: hotline@hudoig.gov
By Mail: HUD Office of Inspector General Hotline, OIG
-451 7th Street, SW
-Washington, DC 20410

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

BHHC Policy

BHHC 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 BHHC 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.

BHHC 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 960.259]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

BHHC Policy

BHHC 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 BHHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed BHHC, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

BHHC Policy

In the case of family-caused errors or program abuse, BHHC 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.

Notice and Appeals

BHHC Policy

BHHC 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 BHHC determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

BHHC Policy

Increases in the tenant rent will be implemented only after the family has received 30 days notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse BHHC or BHHC is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA

BHHC Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. BHHC may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, BHHC will terminate the family's lease in accordance with the policies in Chapter 13.

PHA Reimbursement to Family

BHHC Policy

BHHC will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

BHHC Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to BHHC Board of Commissioners, employees, contractors, or other BHHC representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to BHHC on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

BHHC may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- The PHA 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 13 (for residents).
- The PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the PHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by PHA staff.

Notice PIH 2007-27, states that PHAs are required to reimburse residents for overpayment of tenant rent in accordance with PHA policy.

PHA Reimbursement to Family

BHHC Policy

BHHC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

BHHC Policy

Any of the following will be considered evidence of program abuse by BHHC staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to BHHC

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of BHHC activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

BHHC Policy

When BHHC determines that program abuse by a family or BHHC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, BHHC will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent 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 public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.
Part V: 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 PHA will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, sating violence, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

PHAs must establish allowances for PHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

PHAs must also establish surcharges for excess consumption of PHA-furnished utilities [24 CFR 965.506].

The PHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

The PHA must establish separate allowances for each utility and for each category of dwelling units the PHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a PHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the PHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505]. Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the PHA about establishing utility allowances.

Air-Conditioning

"If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

BHHC Policy
BHHC has installed air-conditioning in only two developments 10/2 Harbor Towers and 10/5 scattered site units.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

BHHC Policy
Between annual reviews of utility allowances, BHHC will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the PHA's average utility rate. The basis for calculating the surcharges must be described in the PHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the PHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

BHHC Policy
BHHC does have PHA-furnished utilities. BHHC will charge a surcharge for air-conditioner usage at Harbor Towers.

16-I.D. NOTICE REQUIREMENTS [965.502]

The PHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the PHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the PHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the PHA establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent should be equal to the estimated rent for which the PHA could promptly lease the public housing unit after preparation for occupancy.

The PHA must use a reasonable method to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA

Review of Flat Rents

The PHA must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

BHHC Policy
BHHC will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values.

Posting of Flat Rents

BHHC Policy
BHHC will publicly post the schedule of flat rents in a conspicuous manner in the applicable BHHC or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The PHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

16-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents

PHAs are prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, PHAs must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total tenant payment (TTP) for each tenant within the PHA. PHAs may calculate a maximum rent on either a PHA- or project wide basis. A separate maximum rent can be provided for each separate project or projects may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

PHAs may use the "direct comparison" or the "unit distribution" method for establishing the public housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

BHHC Policy
BHHC will recalculate the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

BHHC Policy
BHHC will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable BHHC or project office.

Documentation of Public Housing Maximum Rents

BHHC Policy
BHHC will maintain records that document how BHHC determined the 95th percentile of TTP, whether the maximum rent was determined BHHC-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

BHHC Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, BHHC holds the family liable to return any underpayments to BHHC.

BHHC will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term r*epayment agreement* refers to a formal document signed by a tenant and provided to BHHC in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to BHHC, BHHC will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-III.B. REPAYMENT POLICY

Family Debts to the PHA

BHHC Policy

Any amount due to BHHC by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, BHHC will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, dose not enter into a repayment agreement, or breaches a repayment agreement, BHHC will terminate the family's tenancy in n accordance with the policies in Chapter 13. BHHC will also pursue other modes of collection.

In accordance with PIH Notice 2010-09 and 2010-19 debt owed to a PHA when reported in the EIV System may be available to other agencies. Debt reported in EIV may cause denial of Federal Housing assistance.

Repayment Agreement Guidelines

Down Payment Requirement

BHHC Policy

Prior to the execution of a repayment agreement with a family, BHHC will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to BHHC that a down payment of 10 percent would impose a undue hardship, BHHC may at the Executive Directors sole discretion require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month-the family's monthly share of rent plus the monthly debt repayment amount-should not exceed 40 percent of the family's month adjusted income, which is considered "affordable." Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreement with families.
[24 CFR 982.552(c)(1)(vii)].

BHHC Policy

If the family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts: The difference between 40 percent of the family's MAI and the total family share at the time the agreement is executed

If the family can provide evidence satisfactory to BHHC that a monthly payment amount of $25.00 would impose a undue hardship, BHHC may at the Executive Directors sole discretion require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement either BHHC or the family may request that the monthly payment amount be adjusted accordingly.

All BHHC repayment agreements will have the following timeline:

- Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

Execution of the Agreement

BHHC Policy

Any repayment agreement between BHHC and the family must be signed and dated by BHHC representative and by the head of household and spouse/cohead (if applicable).

Due Dates

BHHC 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.

Late or Missed Payments

BHHC Policy

If payment is not received by the end of business day on the date due, and prior approval for the missed payment has not been given by BHHC, BHHC 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 BHHC will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and BHHC will terminate tenancy in accordance with the policies in Chapter 13.

Non-Payment

BHHC 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 BHHC, BHHC 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 BHHC will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and BHHC will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

BHHC Policy

BHHC will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- **A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act**
- **A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner**
- **A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases**
- **A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy**

BHHC Policy

BHHC repayment agreement will clearly indicate the provisions as indicated in PIH Notice 2010-19.

Offer of Repayment Agreement

BHHC Policy

BHHC will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's properties
Maximum Score: 40

- The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of a PHA's properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in the PHA's public housing portfolio.

Indicator 2: Financial condition of a PHA
Maximum Score: 25

- The objective of this indicator is to measure the financial condition of a PHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A PHA's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of a PHA
Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities.
- Each project's management operation are assessed based on following subindicators: occupancy tenant account receivables, account payables.
- An on site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Funds
Maximum Score: 10

- The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.
- The PHA's score for this indicator is measured at the PHA level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING [24 CFR 902.63 and 902.67]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the subindicator under each indicator. The PHA's indicator scores are based on weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(1)].
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(2)]
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Sectary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The PHA 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 PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

The PHA must keep the last three years of the Form HUD-50085 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date
[24 CFR 908.101]

BHHC Policy

During the term of each public housing tenancy, and for at least five years thereafter, BHHC will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, BHHC will keep the following records for at least five years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation related PHAS
- Accounts and other records supporting PHA budget and financial statements for the program
- Other records as determined by BHHC or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

BHHC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BHHC staff.

BHHC 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.

In addition, BHHC will ensure that all applicant and participant information and files are maintained in a secure locked file cabinet in a way that protects an individual's privacy rights.

Applicant files will not be shared with a database nor provided to any related entity, except where written permission by the applicant is given to BHHC.

Applications will be stored for no less than (5) five years. If the applicant is determined to be eligible, the criminal history report shall be shredded as soon as the applicant is housed. The file will be noted that a Criminal Background check was performed. Applicant denied housing, due to an unfavorable criminal background history. The file will be noted with the statement ***adverse reporting***. The actual report will be kept in a separate locked file cabinet. The information will only be retained during the allotted time limit granted by BHHC's grievance procedures. Once the time limit has expired and if there has been no request made by the applicant for a hearing, the record will be shredded. BHHC will shred negative criminal background reports.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document,

Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data.

BHHC Policy

Prior to utilizing HUD's EIV system, BHHC will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA 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 PHA 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 PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The PHA 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. The PHA must also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

BHHC Policy

BHHC 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.

BHHC will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act of 2005 (VAWA) provides special protection of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the public housing program, If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5 "Occupancy Standards and Unit Offers " (section 5-II. D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (section 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS

As used in VAWA:

- The term ***bifurcate*** means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse 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 *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.

- 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.

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to the Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of is public housing program are aware of their rights under VAWA.

BHHC Policy

BHHC will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who request it.

A summary of the rights and protection provided by VAWA to public housing applicants and residents who are or have been a victim of domestic violence, dating violence, or stalking (see notice Exhibit 16-1)

The definition of domestic violence, dating violence, and stalking provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that the PHA may require from an individual who claims the protection provided by VAWA (included in Exhibit 16-1)

A copy of HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of BHHC's obligation to keep confidential any information that is received from a victim unless (a) BHHC has the victims written permission to release the information, (b)it needs to use the information in a eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hotline: 1800-799-SAFE (7322) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact Information for local victim advocacy groups or service providers

NOTIFICATION TO APPLICANTS AND TENANTS [24 CFR 5.2005(A)(1)]

PHAs are required to inform public housing tenants of their rights under VAWA, including their rights to confidentiality and the limits thereof. Since VAWA provides protection for applicants as well as tenants, PHAs may elect to provide the same information to applicants.

BHHC Policy

BHHC will provide all applicants with information about VAWA t the time they request an application for housing assistance. The PHA will also include such information in all notices of denial od assistance (see Section 3-III.F).

BHHC will provide all tenants with information about VAWA at the time of admission (see Section 8-I.B) and at annual reexamination. BHHC will also include such information in all lease termination notices (see Section 13-IV.D).

The VAWA information provided to applicants and tenants will consist of the notice in Exhibit 16-I and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

Datinnotification of their protections and rights under VAWA at the time they request an application for housing assistance.
The notice will explain the protections afforded under the law, inform each applicant of BHHC confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.
BHHC will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

16-VII.B. NOTIFICATION TO TENANTS [Pub.L. 109-162]

VAWA requires PHAs to notify tenants assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

BHHC Policy

BHHC will provide all tenants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.
The notice will explain the protections afforded under the law, inform the tenant of BHHC confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.
BHHC will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 13-IV.D).

Revised by Sheila Hill 2012/Benton Harbor Housing Commission
Prepared By:
Sheila Hill
Nan McKay and Associates Inc .

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Treasurer/Chairman Finance Committee

AMENDMENT VAWA POLICY
FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010
BENTON HARBOR HOUSING COMMISSION AMENDS ITS
PUBLIC HOUSING AGENCY PLAN

The authority citation for part 903 continues to read as follows:

Authority: 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

Amend Sec. 903.6 to revise paragraph (a)(3) to read as follows:

Sec. 903.6 What information must a PHA provide in the 5-Year Plan?

(3) A statement about goals, activities, objectives, policies, or programs that will enable a PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

* * * * *

Amend Sec. 903.7 to revise paragraph (m)(5) to read as follows:
Sec. 903.7 What information must a PHA provide in an annual plan?

(5) A statement of any domestic violence, dating violence, sexual assault, and stalking prevention programs:

(i) A description of any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

(ii) Any activities, services, or programs provided or offered by a PHA that help child and adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; and

(iii) Any activities, services, or programs provided or offered by a PHA to prevent domestic violence, dating violence, sexual assault, or stalking, or to enhance victim safety in assisted families.

* * * *

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Treasurer/Chairman Finance Committee

AMENDMENT VAWA POLICY
FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010
BENTON HARBOR HOUSING COMMISSION AMENDS ITS
ADMISSION AND CONTINUED OCCUPANCY PLAN

The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z-3, and 3535(d).

Amend Sec. 960.103 to revise the section heading and paragraph (d) to read as follows:

Sec. 960.103 Equal opportunity requirements and protection for victims of domestic violence, dating violence, or stalking.

* * * * *

(d) Protection for victims of domestic violence, dating violence, or stalking. The PHA must apply 24 CFR part 5, subpart L in all applicable cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

Amend Sec. 960.200 to revise paragraph (b)(8) to read as follows:

Sec. 960.200 Purpose.

* * * * *

(8) Protection for victims of domestic violence, dating violence, or stalking, 24 CFR part 5, subpart L.

Amend Sec. 960.203 to revise paragraph (c)(4) to read as follows:

Sec. 960.203 Standards for PHA tenant selection criteria.

* * * * *

(4) PHA tenant selection criteria are subject to 24 CFR part 5, subpart L, protections for victims of domestic violence, dating violence, or stalking.

* * * * *

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Treasurer/Chairman Finance Committee

AMENDMENT VAWA POLICY
FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010
BENTON HARBOR HOUSING COMMISSION AMENDS ITS
LEASE AND GRIEVANCE PROCEDURES

The authority citation for part 966 continues to read as follows:

Authority: 42 U.S.C. 1437d and 3535(d).

In Sec. 966.4, revise paragraph (a)(1) and paragraph (e) to read as follows:

Sec. 966.4 Lease requirements.

* * * * *

(a) Parties, dwelling unit and term. (1) The lease shall state:

(i) The names of the PHA and the tenant;

(ii) The unit rented (address, apartment number, and any other information needed to identify the dwelling unit);

(iii) The term of the lease (lease term and renewal in accordance with paragraph (a)(2) of this section);

(iv) A statement of what utilities, services, and equipment are to be supplied by the PHA without additional cost, and what utilities and appliances are to be paid for by the tenant;

(v) The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide). The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit;

(vi) HUD's regulations in 24 CFR part 5, subpart L, apply, if a current or future tenant is or becomes a victim of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L.

* * * * *

(e) The PHA's obligations. The lease shall set forth the PHA's obligations under the lease, which shall include the following:

(1) To maintain the dwelling unit and the project in decent, safe, and sanitary condition;
(2) To comply with requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety;
(3) To make necessary repairs to the dwelling unit;

(4) To keep project buildings, facilities, and common areas, not otherwise assigned to the tenant for maintenance and upkeep, in a clean and safe condition;

(5) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplied or required to be supplied by the PHA;

(6) To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual tenant family) for the deposit of ashes, garbage, rubbish, and other waste removed from the dwelling unit by the tenant in accordance with paragraph (f)(7) of this section;

(7) To supply running water and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year (according to local custom and usage), except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection; and

(8)(i) To notify the tenant of the specific grounds for any proposed adverse action by the PHA. (Such adverse action includes, but is not limited to, a proposed lease termination, transfer of the tenant to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.)

(ii) When the PHA is required to afford the tenant the opportunity for a hearing under the PHA grievance procedure for a grievance concerning a proposed adverse action:

(A) The notice of proposed adverse action shall inform the tenant of the right to request such hearing. In the case of a lease termination, a notice of lease termination, in accordance with paragraph (l)(3) of this section, shall constitute adequate notice of proposed adverse action.

(B) In the case of a proposed adverse action other than a proposed lease termination, the PHA shall not take the proposed action until the time for the tenant to request a

grievance hearing has expired, and (if a hearing was timely requested by the tenant) the grievance process has been completed.

(9) To consider lease bifurcation, as provided in 24 CFR 5.2009, in circumstances involving domestic violence, dating violence, or stalking addressed in 24 CFR part 5, subpart L.

* * * * *



ADMINISTRATIVE PLAN

FOR THE

HOUSING CHOICE VOUCHER PROGRAM
Of The
Benton Harbor Housing Commission
721 Nate Wells Sr. Drive
Benton Harbor, MI 49022
Phone: 269-927-3546
Fax: 269-927-6112
TDD: 269-927-6511

Agency Web Site | www.BHHCommission.org

Revised September 2011

Approved by the PHA Board of Commissioners:

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Introduction
ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

Chapter 1
OVERVIEW OF THE PROGRAM AND PLAN

PART I: THE PHA 1-1
1-I.A. Overview 1-1
1-I.B. Organization And Structure Of The PHA 1-2
1-I.C. PHA Mission 1-3
1-I.D. The PHA's Programs 1-3
1-I.E. THE PHA's Commitment To Ethics And Service 1-4

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM 1-5
1-II.A. Overview And History Of The Program 1-5
1-II.B. HCV Program Basics 1-7
1-II.C. The HCV Partnerships 1-7
The HCV Relationships: 1-8
What does HUD do? 1-9
What does the PHA do? 1-9
What does the Owner do? 1-10
What does the Family do? 1-11
1-II.D. Applicable Regulations 1-12

PART III: THE HCV ADMINISTRATIVE PLAN 1-13
1-III.A. Overview And Purpose Of The Plan 1-13
1-III.B. Contents Of The Plan (24CFR 982.54) 1-13
Mandatory vs. Discretionary Policy 1-15
1-III.C. Organization Of The Plan 1-15
1-III.D. Updating And Revising The Plan 1-15

Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION 2-2
2-I.A. Overview 2-2
2-I.B. Nondiscrimination 2-3
Providing Information to Families and Owners 2-4
Discrimination Complaints 2-4

PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES 2-5
2-II.A. Overview 2-5
2-II.B. Definition Of Reasonable Accommodation 2-6
Types of Reasonable Accommodations 2-6
2-II.C. Request for an Accommodation 2-7
2-II.D. Verification of Disability 2-8
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]. 2-9
2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments 2-10
2-II.G. Physical Accessibility 2-11
2-II.H. Denial or Termination of Assistance 2-12

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP) 2-13
2-III.A. Overview 2-13
2-III.B. Oral Interpretation 2-14
2-III.C. Written Translation 2-14
2-III.D. Implementation Plan 2-15

Exhibit 2-1: Definition Of A Person With A Disability Under Federal Civil Rights Laws [24 CFR Parts 8.3, and 100.201] 2-16

Chapter 3
ELIGIBILITY

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS 3-2
3-I.A. Overview 3-2
3-I.B. Family And Household [24 CFR 982.201(c), HUD-50058 IB, p. 13] ... 3-2
Family 3-2
Household 3-2
3-I.C. Family Break-Up And Remaining Member Of Tenant Family 3-3
Family Break-up [24 CFR 982.315] 3-3
Remaining Member of a Tenant Family [24 CFR 5.403] 3-3
3-I.D. Head Of Household [24 CFR 5.504(b)] 3-4
3-I.E. Spouse, Cohead, And Other Adult 3-4
3-I.F. Dependent [24 CFR 5.603] 3-5
Joint Custody of Dependents 3-5
3-I.G. Full-Time Student [24 CFR 5.603, HVC GB p. 5-29] 3-5
3-I.H. Elderly And Near-Elderly Persons, And Elderly Family
[24 CFR 5.100 and 5.403] 3-5
Elderly Persons 3-5
Near-Elderly Persons 3-5
Elderly Family 3-5
3-I.I. Persons With Disabilities And Disabled Family [24 CFR 5.403] 3-6
Persons with Disabilities 3-6
Disabled Family 3-6
3-I.J. Guests [24 CFR 5.100] 3-6
3.I.K. Foster Children And Foster Adults 3-7
3-I.L. Absent Family Members 3-7
Definitions of Temporarily and Permanently Absent 3-7
Absent Students 3-7
Absences Due to Placement in Foster Care [24 CFR 5.403] 3-8
Absent Head, Spouse, or Cohead 3-8
Family Members Permanently Confined for Medical Reasons
[HCV GB, p. 5-22] 3-8
Return of Permanently Absent Family Members 3-8
3-I.M. Live-In Aide 3-9

PART II: BASIC ELIGIBILITY CRITERIA 3-10
3-II.A. Income Eligibility And Targeting 3-10
Income Limits 3-10
Types of Low-Income Families [24 CFR 5.603(b)] 3-10
Using Income Limits for Eligibility [24 CFR 982.201] 3-10
Using Income Limits for Targeting [24 CFR 982.201] 3-11
3-II.B. Citizenship Or Eligible Immigration Status [24 CFR 5, Subpart E] 3-12
Declaration [24 CFR 5.508] 3-12
Mixed Families 3-13
Ineligible Families [24 CFR 5.514(d), (e), and (f)] 3-13
Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)] 3-14
3-II.C. Social Security Numbers [24 CFR 5.216 and 5.218] 3-14
3-II.D. Family Consent To Release Of Information [24 CFR 5.230, HCV GB, p. 5-13] 3-15
3-II.E. Students Enrolled In Institutions Of Higher Education [24 CFR 5.612 and FR Notice 4/10/06] 3-16
Definitions 3-16
Determining Student Eligibility 3-18

PART III: DENIAL OF ASSISTANCE 3-20
3-III.A. Overview 3-20
Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35] 3-20
Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162] 3-20
3-III.B. Mandatory Denial Of Assistance [24 CFR 982.553(a)] 3-21
3-III.C. Other Permitted Reasons For Denial Of Assistance 3-22
Criminal Activity [24 CFR 982.553] 3-22
Previous Behavior in Assisted Housing [24 CFR 982.552(c)] 3-23
3-III.D. Screening 3-24
Screening for Eligibility 3-24
Screening for Suitability as a Tenant [24 CFR 982.307] 3-25
3-III.E. Criteria For Deciding To Deny Assistance 3-26
Evidence [24 CFR 982.553(c)] 3-26
Consideration of Circumstances [24 CFR 982.552(c)(2)] 3-26
Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)] 3-27
Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)] 3-27
3-III.F. Notice Of Eligibility Or Denial 3-28

3-III.G. Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking [Pub.L. 109-162] 3-29
Definitions 3-29
Notification and Victim Documentation 3-30
Perpetrator Removal or Documentation of Rehabilitation 3-30
PHA Confidentiality Requirements 3-30

Exhibit 3-1: Detailed Definitions Related To Disabilities 3-32
Person with Disabilities [24 CFR 5.403] 3-32
Individual with Handicaps [24 CFR 8.3] 3-34

Exhibit 3-2: Definition Of Institution Of Higher Education 3-35
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] 3-35

Chapter 4
APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS 4-2
- 4-I.A. Overview 4-2
- 4-I.B. Applying For Assistance [HCV GB, pp. 4-11 – 4-16] 4-2
- 4-I.C. Accessibility Of The Application Process 4-3
  - Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13] 4-3
  - Limited English Proficiency 4-3
- 4-I.D. Placement On The Waiting List 4-4
  - Ineligible for Placement on the Waiting List 4-4
  - Eligible for Placement on the Waiting List 4-4

PART II: MANAGING THE WAITING LIST 4-5
- 4-II.A. Overview 4-5
- 4-II.B. Organization Of The Waiting List [24 CFR 982.204 and 205] 4-5
- 4-II.C. Opening And Closing The Waiting List [24 CFR 982.206] 4-6
  - Closing the Waiting List 4-6
  - Reopening the Waiting List 4-6
- 4-II.D. Family Outreach [HCV GB, pp. 4-2 to 4-4] 4-7
- 4-II.E. Reporting Changes In Family Circumstances 4-8
- 4-II.F. Updating The Waiting List [24 CFR 982.204] 4-8
  - Purging the Waiting List 4-8
  - Removal from the Waiting List 4-9

PART III: SELECTION FOR HCV ASSISTANCE 4-10
- 4-III.A. Overview 4-10
- 4-III.B. Selection And HCV Funding Sources 4-10
  - Special Admissions [24 CFR 982.203] 4-10
  - Targeted Funding [24 CFR 982.204(e)] 4-10
  - Regular HCV Funding 4-10
- 4-III.C. Selection Method 4-11
  - Local Preferences [24 CFR 982.207; HCV p. 4-16] 4-11
  - Income Targeting Requirement [24 CFR 982.201(b)(2)] 4-11
  - Order of Selection 4-12
- 4-III.D. Notification Of Selection 4-13
- 4-III.E. The Application Interview 4-13
- 4-III.F. Completing The Application Process 4-15

Chapter 5
BRIEFINGS AND VOUCHER ISSUANCE

PART I: BRIEFINGS AND FAMILY OBLIGATIONS 5-1
5-I.A. Overview 5-1
5-I.B. Briefing [24 CFR 982.301] 5-2
Notification and Attendance 5-2
Oral Briefing [24 CFR 982.301(a)] 5-3
Briefing Packet [24 CFR 982.301(b)] 5-4
Additional Items to be Included in the Briefing Packet 5-5
5-I.C. Family Obligations 5-6
Time Frames for Reporting Changes Required By Family Obligations 5-6
Family Obligations [24 CFR 982.551] 5-6

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE 5-10
5-II.A. Overview 5-10
5-II.B. Determining Family Unit (Voucher) Size [24 CFR 982.402] 5-10
5-II.C. Exceptions To Subsidy Standards 5-12
5-II.D. Voucher Issuance [24 CFR 982.302] 5-13
5-II.E. Voucher Term, Extensions, And Suspensions 5-14
Voucher Term [24 CFR 982.303] 5-14
Extensions of Voucher Term [24 CFR 982.303(b)] 5-14
Suspensions of Voucher Term [24 CFR 982.303(c)] 5-15
Expiration of Voucher Term 5-15

Chapter 6
INCOME AND SUBSIDY DETERMINATIONS
[24 CFR Part 5, Subparts E and F; 24 CFR 982]

PART I: ANNUAL INCOME 6-2
6-I.A. Overview 6-2
6-I.B. Household Composition And Income 6-3
Summary of Income Included and Excluded by Person 6-3
Temporarily Absent Family Members 6-4
Family Members Permanently Confined for Medical Reasons 6-5
Joint Custody of Dependents 6-5
Caretakers for a Child 6-6
6-I.C. Anticipating Annual Income 6-7
Basis of Annual Income Projection 6-7
Using Up-Front Income Verification (UIV) to Project Income 6-8
6-I.D. Earned Income 6-9
Types of Earned Income Included in Annual Income 6-9
Types of Earned Income Not Counted in Annual Income 6-9
6-I.E. Earned Income Disallowance For Persons With Disabilities [24 CFR 5.617] 6-13
Eligibility 6-13
Calculation of the Disallowance 6-14
6-I.F. Business Income [24 CFR 5.609(b)(2)] 6-15
Business Expenses 6-15
Business Expansion 6-15
Capital Indebtedness 6-15
Negative Business Income 6-16
Withdrawal of Cash or Assets from a Business 6-16
Co-owned Businesses 6-16
6-I.G. Assets [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)] 6-17
Overview 6-17
General Policies 6-17
Types of Assets 6-21
6-I.H. Periodic Payments 6-25
Periodic Payments Included in Annual Income 6-25
Lump-Sum Payments for the Delayed Start of a Periodic Payment 6-25
Periodic Payments Excluded from Annual Income 6-26
6-I.I. Payments In Lieu Of Earnings 6-26
6-I.J. Welfare Assistance 6-27
Overview 6-27
Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615] 6-27

6-I.K. Periodic And Determinable Allowances [24 CFR 5.609(b)(7)] 6-28
Alimony and Child Support 6-28
Regular Contributions or Gifts 6-28
6-I.L. Student Financial Assistance [24 CFR 5.609(b)(9)] 6-29
Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06] 6-29
Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)] 6-30
6-I.M. Additional Exclusions From Annual Income 6-31

PART II: ADJUSTED INCOME 6-33
6-II.A. Introduction 6-33
Overview 6-33
Anticipating Expenses 6-33
6-II.B. Dependent Deduction 6-34
6-II.C. Elderly Or Disabled Family Deduction 6-34
6-II.D. Medical Expenses Deduction [24 CFR 5.611(a)(3)(i)] 6-35
Definition of *Medical Expenses* 6-35
Summary of Allowable Medical Expenses from IRS Publication 502 6-35
Families That Qualify for Both Medical and Disability Assistance Expenses 6-36
6-II.E. Disability Assistance Expenses Deduction [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)] 6-37
Earned Income Limit on the Disability Assistance Expense Deduction 6-37
Eligible Disability Expenses 6-38
Necessary and Reasonable Expenses 6-39
Families That Qualify for Both Medical and Disability Assistance Expenses 6-39
6-II.F. Child Care Expense Deduction 6-40
Clarifying the Meaning of *Child* for This Deduction 6-40
Qualifying for the Deduction 6-40
Earned Income Limit on Child Care Expense Deduction 6-42
Eligible Child Care Expenses 6-43

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY 6-44
6-III.A. Overview Of Rent And Subsidy Calculations 6-44
TTP Formula [24 CFR 5.628] 6-44
Family Share [24 CFR 982.305(a)(5)] 6-44
PHA Subsidy [24 CFR 982.505(b)] 6-45
Utility Reimbursement [24 CFR 982.514(b)] 6-45
6-III.B. Financial Hardships Affecting Minimum Rent [24 CFR 5.630] 6-46
Overview 6-46
HUD-Defined Financial Hardship 6-46
Implementation of Hardship Exemption 6-48
6-III.C. Applying Payment Standards [24 CFR 982.505] 6-51
Overview 6-51
Changes in Payment Standards 6-51
Reasonable Accommodation 6-52
6-III.D. Applying Utility Allowances [24 CFR 982.517] 6-53
Overview 6-53
Reasonable Accommodation 6-53
Utility Allowance Revisions 6-53
6-III.E. Prorated Assistance For Mixed Families [24 CFR 5.520] 6-54

Exhibit 6-1: Annual Income Inclusions 6-55
HHS Definition Of "Assistance" 6-56

Exhibit 6-2: Annual Income Exclusions 6-58

Exhibit 6-3: Treatment Of Family Assets 6-61

Exhibit 6-4: Earned Income Disallowance For Persons With Disabilities 6-62

Exhibit 6-5: The Effect Of Welfare Benefit Reduction 6-64

Chapter 7
VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

PART I: GENERAL VERIFICATION REQUIREMENTS 7-1
7-I.A. Family Consent To Release Of Information [24 CFR 982.516 and 982.551, 24 CFR 5.230] 7-1
Consent Forms 7-1
Penalties for Failing to Consent [24 CFR 5.232] 7-1
7-I.B. Overview Of Verification Requirements 7-2
HUD's Verification Hierarchy 7-2
Requirements for Acceptable Documents 7-2
File Documentation 7-3
7-I.C. Up-Front Income Verification (UIV) 7-3
Definition of Substantial Difference 7-3
When No Substantial Difference Exists 7-3
When a Substantial Difference Exists 7-3
Use of HUD's Enterprise Income Verification (EIV) System 7-4
7-I.D. Third-Party Written And Oral Verification 7-6
Reasonable Effort and Timing 7-6
When Third-Party Information is Late 7-7
When Third-Party Verification is Not Required 7-7
7-I.E. Review Of Documents 7-9
Using Review of Documents as Verification 7-9
7-I.F. Self-Certification 7-9

PART II: VERIFYING FAMILY INFORMATION 7-10
7-II.A. Verification Of Legal Identity 7-10
7-II.B. Social Security Numbers [24 CFR 5.216 and HCV GB, p. 5-12] 7-11
7-II.C. Documentation Of Age 7-11
7-II.D. Family Relationships 7-13
Marriage 7-13
Separation or Divorce 7-13
Absence of Adult Member 7-14
Foster Children and Foster Adults 7-14
7-II.E. Verification Of Student Status 7-15
General Requirements 7-15
Restrictions on Assistance to Students Enrolled in Institutions of Higher Education 7-15
7-II.F. Documentation Of Disability 7-16
Family Members Receiving SSA Disability Benefits 7-17
Family Members Not Receiving SSA Disability Benefits 7-17
7-II.G. Citizenship Or Eligible Immigration Status [24 CFR 5.508] 7-18
Overview 7-18
U.S. Citizens and Nationals 7-18
Eligible Immigrants 7-19
7-II.H. Verification Of Preference Status 7-19

PART III: VERIFYING INCOME AND ASSETS 7-20
7-III.A. Earned Income 7-20
Tips 7-20
7-III.B. Business And Self Employment Income 7-20
7-III.C. Periodic Payments And Payments In Lieu Of Earnings 7-21
Social Security/SSI Benefits 7-21
7-III.D. Alimony Or Child Support 7-22
7-III.E. Assets And Income From Assets 7-23
Assets Disposed of for Less than Fair Market Value 7-23
7-III.F. Net Income From Rental Property 7-23
7-III.G. Retirement Accounts 7-24
7-III.H. Income From Excluded Sources 7-24
7-III.I. Zero Annual Income Status 7-24
7-III.J. Student Financial Assistance 7-25
7-III.K. Parental Income Of Students Subject To Eligibility Restrictions 7-26

PART IV: VERIFYING MANDATORY DEDUCTIONS 7-27
7-IV.A. Dependent And Elderly/Disabled Household Deductions 7-27
Dependent Deduction 7-27
Elderly/Disabled Family Deduction 7-27
7-IV.B. Medical Expense Deduction 7-28
Amount of Expense 7-28
Eligible Household 7-29
Qualified Expenses 7-29
Unreimbursed Expenses 7-29
Expenses Incurred in Past Years 7-29
7-IV.C. Disability Assistance Expenses 7-30
Amount of Expense 7-30
Family Member is a Person with Disabilities 7-31
Family Member(s) Permitted to Work 7-31
Unreimbursed Expenses 7-31
7-IV.D. Child Care Expenses 7-32
Eligible Child 7-32
Unreimbursed Expense 7-32
Pursuing an Eligible Activity 7-33
Allowable Type of Child Care 7-34
Reasonableness of Expenses 7-34

Exhibit 7-1: Excerpt From HUD Verification Guidance Notice
(PIH 2004-01, pp. 11-14) 7-35

Exhibit 7-2: Summary Of Documentation Requirements For Noncitizens
[HCV GB, pp. 5-9 and 5-10] 7-39

Chapter 8
HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS
[24 CFR 982 Subpart I and 24 CFR 982.507]

PART I: PHYSICAL STANDARDS 8-2
8-I.A. General HUD Requirements 8-2
HUD Performance and Acceptability Standards 8-2
Tenant Preference Items 8-2
Modifications to Provide Accessibility 8-3
8-I.B. Additional Local Requirements 8-4
Thermal Environment [HCV GB p.10-7] 8-4
Clarifications of HUD Requirements 8-5
8-I.C. Life Threatening Conditions [24 CFR 982.404(a)] 8-6
8-I.D. Owner And Family Responsibilities [24 CFR 982.404] 8-7
Family Responsibilities 8-7
Owner Responsibilities 8-7
8-I-E. Special Requirements For Children With Environmental Intervention Blood Lead Level [24 CFR 35.1225] 8-8
8-I-F. Violation Of HQS Space Standards [24 CFR 982.403] 8-8

PART II: THE INSPECTION PROCESS 8-9
8-II.A. Overview [24 CFR 982.405] 8-9
Types of Inspections 8-9
Inspection of PHA-owned Units [24 CFR 982.352(b)] 8-9
Inspection Costs 8-9
Notice and Scheduling 8-10
Attendance at inspections by owner and family 8-10
8-II.B. Initial HQS Inspection [24 CFR 982.401(a)] 8-11
Timing of Initial Inspections 8-11
Inspection Results and Reinspections 8-11
Utilities 8-12
Appliances 8-12
8-II.C. Annual HQS Inspections [24 CFR 982.405(a)] 8-13
Scheduling the Inspection 8-13
8-II.D. Special Inspections [HCV GB p. 10-30] 8-13
8-II.E. Quality Control Inspections [24 CFR 982.405(b), HCV GB p. 10-32] 8-13
8-II.F. Inspection Results And Reinspections For Units Under HAP Contract 8-14
Notification of Corrective Actions 8-14
Extensions 8-15
Reinspections 8-15
8-II.G. Enforcing Owner Compliance 8-16
HAP Abatement 8-16
HAP Contract Termination 8-16
8-II.H. Enforcing Family Compliance With HQS [24 CFR 982.404(b)] 8-16

PART III: RENT REASONABLENESS [24 CFR 982.507] 8-17
8-III.A. Overview 8-17
PHA-owned Units [24 CFR 982.352(b)] 8-17
8-III.B. When Rent Reasonableness Determinations Are Required 8-18
Owner-initiated Rent Determinations 8-18
PHA- and HUD-Initiated Rent Reasonableness Determinations ... 8-18
8-III.C. How Comparability Is Established 8-19
Factors to Consider 8-19
Units that Must Not be Used as Comparables 8-19
Rents Charged for Other Units on the Premises 8-19
8-III.D. PHA Rent Reasonableness Methodology 8-20
How Market Data is Collected 8-20
How Rents are Determined 8-20

Exhibit 8-1: Overview Of HUD Housing Quality Standards 8-21

Exhibit 8-2: Summary Of Tenant Preference Areas Related To Housing Quality 8-24

Chapter 9
GENERAL LEASING POLICIES

9-I.A. Tenant Screening 9-2
9-I.B. Requesting Tenancy Approval [Form HUD-52517] 9-3
9-I.C. Owner Participation 9-4
9-I.D. Eligible Units 9-5
Ineligible Units [24 CFR 982.352(a)] 9-5
PHA-Owned Units [24 CFR 982.352(b)] 9-5
Special Housing Types [24 CFR 982 Subpart M] 9-5
Duplicative Assistance [24 CFR 982.352(c)] 9-6
Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401] 9-6
Unit Size 9-7
Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507] 9-7
Rent Burden [24 CFR 982.508] 9-7
9-I.E. Lease And Tenancy Addendum 9-8
Lease Form and Tenancy Addendum [24 CFR 982.308] 9-8
Lease Information [24 CFR 982.308(d)] 9-8
Term of Assisted Tenancy 9-9
Security Deposit [24 CFR 982.313 (a) and (b)] 9-9
Separate Non-Lease Agreements between Owner and Tenant 9-10
PHA Review of Lease 9-11
9-I.F. Tenancy Approval [24 CFR 982.305] 9-12
9-I.G. HAP Contract Execution [24 CFR 982.305] 9-13
9-I.H. Changes In Lease Or Rent [24 CFR 982.308] 9-14

Chapter 10
MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

PART I: MOVING WITH CONTINUED ASSISTANCE 10-1
10-I.A. Allowable Moves 10-1
10-I.B. Restrictions On Moves 10-3
Denial of Moves 10-3
Restrictions on Elective Moves [24 CFR 982.314(c)] 10-4
10-I.C. Moving Process 10-5
Notification 10-5
Approval 10-5
Reexamination of Family Income and Composition 10-5
Voucher Issuance and Briefing 10-5
Housing Assistance Payments [24 CFR 982.311(d)] 10-6

PART II: PORTABILITY 10-7
10-II.A. Overview 10-7
10-II.B. Initial PHA Role 10-8
Allowable Moves under Portability 10-8
Determining Income Eligibility 10-9
Reexamination of Family Income and Composition 10-9
Briefing 10-10
Voucher Issuance and Term 10-10
Voucher Extensions and Expiration 10-10
Initial Contact with the Receiving PHA 10-11
Sending Documentation to the Receiving PHA 10-11
Initial Billing Deadline [Notice PIH 2004-12] 10-12
Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12] 10-12
Annual Updates of Form HUD-50058 10-13
Subsequent Family Moves 10-13
Denial or Termination of Assistance [24 CFR 982.355(c)(9)] 10-13
10-II.C. Receiving PHA Role 10-14
Initial Contact with Family 10-14
Briefing 10-15
Income Eligibility and Reexamination 10-15
Voucher Issuance 10-16
Notifying the Initial PHA 10-17
Administering a Portable Family's Voucher 10-17
Absorbing a Portable Family 10-20

Chapter 11
REEXAMINATIONS

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516] 11-1
11-I.A. Overview 11-1
11-I.B. Scheduling Annual Reexaminations 11-2
Notification of and Participation in the Annual Reexamination Process 11-2
11-I.C. Conducting Annual Reexaminations 11-3
11-I.D. Determining Ongoing Eligibility Of Certain Students [24 CFR 982.552(b)(5)] 11-4
11-I.E. Effective Dates 11-5

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516] 11-6
11-II.A. Overview 11-6
11-II.B. Changes In Family And Household Composition 11-6
New Family Members Not Requiring Approval 11-6
New Family and Household Members Requiring Approval 11-7
Departure of a Family or Household Member 11-8
11-II.C. Changes Affecting Income Or Expenses 11-9
PHA-Initiated Interim Reexaminations 11-9
Family-Initiated Interim Reexaminations 11-10
11-II.D. Processing The Interim Reexamination 11-11
Method of Reporting 11-11
Effective Dates 11-11

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT 11-12
11-III.A. Overview 11-12
11-III.B. Changes In Payment Standards And Utility Allowances 11-12
Payment Standards [24 CFR 982.505] 11-12
Subsidy Standards [24 CFR 982.505(c)(4)] 11-13
Utility Allowances [24 CFR 982.517(d)] 11-13
11-III.C. Notification Of New Family Share And HAP Amount 11-13
11-III.D. Discrepancies 11-13

Chapter 12
TERMINATION OF ASSISTANCE AND TENANCY

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE 12-1
12-I.A. Overview 12-1
12-I.B. Family No Longer Requires Assistance [24 CFR 982.455] 12-1
12-I.C. Family Chooses To Terminate Assistance 12-2
12-I.D. Mandatory Termination Of Assistance 12-2
Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162] 12-2
Failure to Provide Consent [24 CFR 982.552(b)(3)] 12-2
Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)] 12-3
Failure to Provide Social Security Documentation [24 CFR 5.218(c)] 12-3
Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)] 12-3
Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06] 12-3
12-I.E. Mandatory Policies And Other Authorized Terminations 12-4
Mandatory Policies [24 CFR 982.553(b) and 982.551(l)] 12-4
Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162] 12-6

PART II: APPROACH TO TERMINATION OF ASSISTANCE 12-8
12-II.A. Overview 12-8
12-II.B. Method Of Termination [24 CFR 982.552(a)(3)] 12-8
12-II.C. Alternatives To Termination Of Assistance 12-8
Change in Household Composition 12-8
Repayment of Family Debts 12-8
12-II.D. Criteria For Deciding To Terminate Assistance 12-9
Evidence 12-9
Consideration of Circumstances [24 CFR 982.552(c)(2)(i)] 12-9
Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)] 12-10
12-II.E. Terminating the Assistance of Domestic Violence, Dating Violence, or Stalking Victims and Perpetrators [Pub.L. 109-162, Pub.L. 109-271] 12-11
Victim Documentation 12-12
Terminating the Assistance of a Domestic Violence Perpetrator 12-13
PHA Confidentiality Requirements 12-13
12-II.F. Termination Notice [HCV GB, p. 15-7] 12-14
Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)] 12-15
12-II.G. How Termination Of Assistance Affects The HAP Contract And Lease 12-15

PART III: TERMINATION OF TENANCY BY THE OWNER 12-16
12-III.A. Overview 12-16
12-III.B. Grounds For Owner Termination Of Tenancy [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162] 12-16
Serious or Repeated Lease Violations 12-16
Violation of Federal, State, or Local Law 12-16
Criminal Activity or Alcohol Abuse 12-16
Other Good Cause 12-17
12-III.C. Eviction [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum] 12-18
12-III.D. Deciding Whether To Terminate Tenancy [24 CFR 982.310(h), Pub.L. 109-162] 12-19
12-III.E. Effect of Tenancy Termination on the Family's Assistance 12-19

Exhibit 12-1: Statement Of Family Obligations 12-20

Chapter 13 OWNERS

PART I: OWNERS IN THE HCV PROGRAM 13-2
13-I.A. Owner Recruitment And Retention [HCV GB, pp. 2-4 to 2-6] 13-2
Recruitment 13-2
Retention 13-3
13-I.B. Basic HCV Program Requirements 13-4
13-I.C. Owner Responsibilities [24 CFR 982.452, Pub.L. 109-162] 13-6
13-I.D. Owner Qualifications 13-7
Owners Barred from Participation [24 CFR 982.306(a) and (b)] ... 13-7
Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2] 13-7
Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19] 13-7
Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)] 13-9
Legal Ownership of Unit 13-10
13-I.E. Non-Discrimination [HAP Contract – Form HUD-52641] 13-10

PART II: HAP CONTRACTS 13-11
13-II.A. Overview 13-11
13-II.B. HAP Contract Contents 13-12
13-II.C. HAP Contract Payments 13-14
General 13-14
Owner Certification of Compliance 13-14
Late HAP Payments [24 CFR 982.451(a)(5)] 13-15
Termination of HAP Payments [24 CFR 982.311(b)] 13-15
13-II.D. Breach Of HAP Contract [24 CFR 982.453] 13-16
13-II.E. HAP Contract Term And Terminations 13-17
13-II.F. Change In Ownership / Assignment Of The HAP Contract [HUD-52641] 13-19

13-IIG. FORECLOSURE [HUD-52641 and Notice PIH 2010-49]……...13-20

Chapter 14
PROGRAM INTEGRITY

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE 14-2
14-I.A. Preventing Errors And Program Abuse 14-2
14-I.B. Detecting Errors And Program Abuse 14-3
Quality Control and Analysis of Data 14-3
Independent Audits and HUD Monitoring 14-3
Individual Reporting of Possible Errors and Program Abuse 14-3
14-I.C. Investigating Errors And Program Abuse 14-4
When the PHA Will Investigate 14-4
Consent to Release of Information [24 CFR 982.516] 14-4
Analysis and Findings 14-4
Consideration of Remedies 14-5
Notice and Appeals 14-5

PART II: CORRECTIVE MEASURES AND PENALTIES 14-6
14-II.A. Subsidy Under- Or Overpayments 14-6
Corrections 14-6
Reimbursement 14-6
14-II.B. Family-Caused Errors And Program Abuse 14-7
Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13] 14-7
PHA Reimbursement to Family [HCV GB p. 22-12] 14-7
Prohibited Actions 14-8
Penalties for Program Abuse 14-8
14-II.C. Owner-Caused Error Or Program Abuse 14-9
Owner Reimbursement to the PHA 14-9
Prohibited Owner Actions 14-9
Remedies and Penalties 14-10
14-II.D. PHA-Caused Errors Or Program Abuse 14-11
Repayment to the PHA 14-11
PHA Reimbursement to Family or Owner 14-11
Prohibited Activities 14-11
14-II.E. Criminal Prosecution 14-12
14-II.F. Fraud And Program Abuse Recoveries 14-13

Chapter 15
SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

PART I: SINGLE ROOM OCCUPANCY [24 CFR 982.602 through 982.605] 15-1
15-I.A. Overview 15-1
15-I.B. Payment Standard, Utility Allowance, And HAP Calculation 15-1
15-I.C. Housing Quality Standards (HQS) 15-1

PART II: CONGREGATE HOUSING [24 CFR 982.606 through 982.609] 15-4
15-II.A. Overview 15-4
15-II.B. Payment Standard, Utility Allowance, And HAP Calculation 15-5
15-II.C. Housing Quality Standards 15-5

PART III: GROUP HOME [24 CFR 982.610 through 982.614 and HCV GB p. 7-4] 15-6
15-III.A. Overview 15-6
15-III.B. Payment Standard, Utility Allowance, And HAP Calculation 15-6
15-III.C. Housing Quality Standards 15-7

PART IV: SHARED HOUSING [24 CFR 982.615 through 982.618] 15-8
15-IV.I. Overview 15-8
15-IV.B. Payment Standard, Utility Allowance And HAP Calculation 15-8
15-IV.C. Housing Quality Standards 15-9

PART V: COOPERATIVE HOUSING [24 CFR 982.619] 15-10
15-V.A. Overview 15-10
15-V.B. Payment Standard, Utility Allowance And HAP Calculation 15-10
15-V.C. Housing Quality Standards 15-10

PART VI: MANUFACTURED HOMES [24 CFR 982.620 through 982.624] 15-11
15-VI.A. Overview 15-11
15-VI.B. Special Policies For Manufactured Home Owners
Who Lease A Space 15-11
Family Income 15-11
Lease and HAP Contract 15-11
15-VI.C. Payment Standard, Utility Allowance And HAP Calculation 15-12
Payment Standards 15-12
Utility Allowance 15-12
Space Rent 15-12
Housing Assistance Payment 15-12
Rent Reasonableness 15-12
15-VI.D. Housing Quality Standards 15-13

Chapter 16
PROGRAM ADMINISTRATION

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155] 16-2

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES 16-3
16-II.A. Overview 16-3
16-II.B. Payment Standards [24 CFR 982.503; HCV GB, Chapter 7] 16-3
Updating Payment Standards 16-4
Exception Payment Standards [982.503(c)] 16-5
Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)] 16-5
"Success Rate" Payment Standard Amounts
[24 CFR 982.503(e)] 16-6
Decreases in the Payment Standard Below the Basic Range
[24 CFR 982.503(d)] 16-6
16-II.C. Utility Allowances [24 CFR 982.517] 16-7
Air Conditioning 16-7
Reasonable Accommodation 16-7
Utility Allowance Revisions 16-7

PART III: INFORMAL REVIEWS AND HEARINGS 16-8
16-III.A. Overview 16-8
16-III.B. Informal Reviews 16-8
Decisions Subject to Informal Review 16-8
Notice to the Applicant [24 CFR 982.554(a)] 16-9
Scheduling an Informal Review 16-9
Informal Review Procedures [24 CFR 982.554(b)] 16-9
Informal Review Decision [24 CFR 982.554(b)] 16-10
16-III.C. Informal Hearings For Participants
[24 CFR 982.555, Pub.L. 109-162] 16-11
Decisions Subject to Informal Hearing 16-11
Informal Hearing Procedures 16-13
16-III.D. Hearing And Appeal Provisions For Non-Citizens
[24 CFR 5.514] 16-20
Notice of Denial or Termination of Assistance
[24 CFR 5.514(d)] 16-20
USCIS Appeal Process [24 CFR 5.514(e)] 16-21
Informal Hearing Procedures for Applicants
[24 CFR 5.514(f)] 16-21
Informal Hearing Procedures for Residents
[24 CFR 5.514(f)] 16-23
Retention of Documents [24 CFR 5.514(h)] 16-23

PART IV: OWNER OR FAMILY DEBTS TO THE PHA 16-24
16-IV.A. Overview 16-24
16-IV.B. Repayment Policy 16-25
Owner Debts to the PHA 16-25
Family Debts to the PHA 16-25
Repayment Agreement [24 CFR 792.103] 16-25
Repayment Agreement Guidelines 16-25

PART V: MANAGEMENT ASSESSMENT (SEMAP) 16-27
16-V.A. Overview 16-27
16-V.B. SEMAP Certification [24 CFR 985.101] 16-28
HUD Verification Method 16-28
16-V.C. SEMAP Indicators [24 CFR 985.3 and form HUD-52648] 16-29
SEMAP Indicators Chart 16-29

PART VI: RECORD KEEPING 16-33
16-VI.A. Overview 16-33
16-VI.B. Record Retention [24 CFR 982.158] 16-33
16-VI.C. Records Management 16-34
Privacy Act Requirements [24 CFR 5.212 and Form-9886] 16-34
Upfront Income Verification (UIV) Records 16-34
Criminal Records 16-35
Medical/Disability Records 16-35

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL 16-36
16-VII.A. Overview 16-36
16-VII.B. Reporting Requirement [24 CFR 35.1225(e)] 16-36
16-VII.C. Data Collection And Record Keeping [24 CFR 35.1225(f)] 16-36

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING 16-37
16-VIII.A. Overview 16-37
16-VIII.B. Methodology 16-37

PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA) 16-39
16-IX.A. Notification to Participants [Pub.L. 109-162] 16-39
16-IX.B. Notification to Applicants 16-39
16-IX.C. Notification to Owners and Managers [Pub.L. 109-162] 16-39

Chapter 17
PROJECT-BASED VOUCHERS

PART I: GENERAL REQUIREMENTS 17-2
17-I.A. Overview [24 CFR 983.5] 17-2
17-I.B. Tenant-Based Vs. Project-Based Voucher Assistance [24 CFR 983.2] 17-3
17-I.C. Equal Opportunity Requirements [24 CFR 983.8] 17-3

PART II: PBV Housing Type 17-3
17-II.A. Housing Type [24 CFR 983.52] ..... ….17-3
17-II.B. Prohibition Of Assistance For Certain Units 17-3
Ineligible Housing Types [24 CFR 983.53] 17-3
Subsidized Housing [24 CFR 983.54] 17-4
17-II.C. Subsidy Layering Requirements 17-4
17-II.D. Cap On Number Of PBV Units In Each Building 17-5
25 Percent per Building Cap [24 CFR 983.56(a)] 17-5
Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)] 17-5
Promoting Partially-Assisted Buildings [24 CFR 983.56(c)] 17-6
17-II.E. Site Selection Standards 17-6
Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)] 17-6
New Construction Site and Neighborhood Standards [24 CFR 983.57(e)] 17-7
17-II.H. Environmental Review [24 CFR 983.58] 17-7

PART III: DWELLING UNITS……17-8
17-III.A. Overview 17-8
17-III.B. Housing Quality Standards [24 CFR 983.101] 17-8
Lead-based Paint [24 CFR 983.101(c)]……..17-8
17-III.C. Housing Accessibility For Persons With Disabilities……..17-8
17-III.D. Inspecting Units 17-9
Pre-selection Inspection [24 CFR 983.103(a)] 17-9
Pre-HAP Contract Inspections [24 CFR 983.103(b)] 17-9
Turnover Inspections [24 CFR 983.103(c)] 17-9
Annual Inspections [24 CFR 983.103(d)] 17-9
Other Inspections [24 CFR 983.103(e)] 17-9
Inspecting PHA-owned Units [24 CFR 983.103(f)] 17-9

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS 17-10
17-IV.A. Overview [24 CFR 983.151] 17-10
17-IV.B. Agreement To Enter Into HAP Contract 17-10
Content of the Agreement [24 CFR 983.152(c)] 17-10
Execution of the Agreement [24 CFR 983.153] 17-10
Labor Standards [24 CFR 983.154(b)] 17-10
Equal Opportunity [24 CFR 983.154(c)] 17-10
Owner Disclosure [24 CFR 983.154(d) and (e)] 17-10
17-IV.C. Conduct of Development Work 17-10
17-IV.D. Completion Of Housing 17-12
Evidence of Completion [24 CFR 983.155(b)] 17-12
PHA Acceptance of Completed Units [24 CFR 983.156] 17-12

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP) 17-13
17-V.A. Overview 17-13
17-V.B. HAP Contract Requirements 17-13
Contract Information [24 CFR 983.203] 17-13
Execution of the HAP Contract [24 CFR 983.204] 17-14
Term of HAP Contract [24 CFR 983.205] 17-14
Remedies for HQS Violations [24 CFR 983.207(b)] 17-15
17-V.C. Amendments To The HAP Contract 17-16
Substitution of Contract Units [24 CFR 983.206(a)] 17-16
Addition of Contract Units [24 CFR 983.206(b)] 17-16
17-V.D. HAP Contract Year, Anniversary And Expiration Dates
[24 CFR 983.206(c) and 983.302(e)] 17-16
17-V.E. Owner Responsibilities Under The HAP [24 CFR 983.209] 17-17
17-V.F. Additional HAP Requirements 17-18
Housing Quality and Design Requirements
[24 CFR 983.101(e) and 983.207(a)] 17-18
Vacancy Payments [24 CFR 983.352(b)] 17-18

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS 17-19
17-VI.A. Overview 17-19
17-VI.B. Eligibility For PBV Assistance [24 CFR 983.251(a) and (b)] 17-19
In-Place Families [24 CFR 983.251(b)] 17-19
17-VI.C. Organization Of The Waiting List [24 CFR 983.251(c)] 17-20
17-VI.D. Selection From The Waiting List [24 CFR 983.251(c)] 17-20
Income Targeting [24 CFR 983.251(c)(6)] 17-20
Units with Accessibility Features [24 CFR 983.251(c)(7)] 17-20
Preferences [24 CFR 983.251(d)] 17-21
17-VI.E. Offer Of PBV Assistance 17-22
Refusal of Offer [24 CFR 983.251(e)(3)] 17-22
Disapproval by Landlord [24 CFR 983.251(e)(2)] 17-22
Acceptance of Offer [24 CFR 983.252] 17-22
17-VI.F. Owner Selection Of Tenants 17-23
Leasing [24 CFR 983.253(a)] 17-23
Filling Vacancies [24 CFR 983.254(a)] 17-23
Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)] 17-23
17-VI.G. Tenant Screening [24 CFR 983.255] 17-24
PHA Responsibility 17-24
Owner Responsibility 17-24

PART VII: OCCUPANCY 17-25
17-VII.A. Overview 17-25
17-VII.B. Lease [24 CFR 983.256] 17-25
Form of Lease [24 CFR 983.256(b)] 17-25
Lease Requirements [24 CFR 983.256(c)] 17-25
Tenancy Addendum [24 CFR 983.256(d)] 17-26
Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)] 17-26
Changes in the Lease [24 CFR 983.256(e)] 17-26
Owner Termination of Tenancy [24 CFR 983.257] 17-26
Security Deposits [24 CFR 983.258] 17-27
17-VII.C. Moves 17-27
Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259] 17-27
Family Right to Move [24 CFR 983.260] 17-28
17-VII.D. Exceptions To The Occupancy Cap [24 CFR 983.261] 17-29

PART VIII: DETERMINING RENT TO OWNER 17-30
17-VIII.A. Overview 17-30
17-VIII.B. Rent Limits [24 CFR 983.301] 17-30
Certain Tax Credit Units [24 CFR 983.301(c)] 17-30
Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)] 17-31
Redetermination of Rent [24 CFR 983.302] 17-32
PHA-owned Units [24 CFR 983.301(g)] 17-32
17-VIII.C. Reasonable Rent [24 CFR 983.303] 17-33
When Rent Reasonable Determinations are Required 17-33
How to Determine Reasonable Rent 17-33
PHA-owned Units 17-33
Owner Certification of Reasonable Rent 17-34
17-VIII.D. Effect Of Other Subsidy And Rent Control 17-34
Other Subsidy [24 CFR 983.304] 17-34
Rent Control [24 CFR 983.305] 17-34

PART IX: PAYMENTS TO OWNER 17-35
17-IX.A. Housing Assistance Payments [24 CFR 983.351] 17-35
17-IX.B. Vacancy Payments [24 CFR 983.352] 17-35
17-IX.C. Tenant Rent To Owner [24 CFR 983.353] 17-35
Tenant and PHA Responsibilities 17-36
Utility Reimbursements 17-36
17-IX.D. Other Fees And Charges [24 CFR 983.354] 17-36
Meals and Supportive Services 17-36
Other Charges by Owner 17-36

PART X: Community Supportive Services 17-37

EXHIBITS/ATTACHMENTS

PROJECT BASED VOUCHER ADMINISTRATIVE PROCEDURES

VAWA

GLOSSARY

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

This chapter contains information about the PHA 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 (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

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

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.
Part IV: General Requirements. This part describes general provisions of the PBV program requirements.

PART I: THE PHA

1-I.A. OVERVIEW

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

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

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **Benton Harbor Housing Commission** for the jurisdiction of **Berrien County: City of Benton Harbor,,**

Michigan / County of Berrien/ State of Michigan.

Benton Harbor Housing Commission is governed by a board of officials that are generally called "commissioners" or, collectively, as the board of commissioners. Although some PHA's use a different title for their officials this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The Board of Commissioners establishing policies under which Benton Harbor Housing Commission; hitherto refer to as BHHC, conducts business, ensuring that policies are followed by BHHC staff and ensuring that BHHC is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of Benton Harbor Housing Commission are taken through written resolutions, adopted by the board of commissioners and entered into the official records of BHHC.

The principal staff member of BHHC 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 BHHC's staff. In order to manage the day-to-day operations of BHHC and 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. Benton Harbor Housing Commission Mission Statement

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.

BHHC Policy

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

1-I.D. THE PHA'S PROGRAMS

The following programs are included under this administrative plan:

BHHC Policy

BHHC's Administrative Plan is applicable to the operation of the Housing Choice Voucher Program and the Project Based Voucher Program.

1-I.E. BHHC's COMMITMENT TO ETHICS AND SERVICE

As a public service agency, BHHC is committed to providing excellent service to HCV program participants – families and owners – in the community. BHHC'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 BHHC'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 BHHC's support systems and commitment to our employees and their development.

BHHC 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.

The Project-Based Voucher (PBV) program allows PHAs 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]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of de-concentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

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. BHHC is afforded choices in the operation of the program which are included in BHHC's administrative plan, a document approved by the board of commissioners of BHHC.

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

When a family is determined to be eligible for the program and funding is available, BHHC will issue the family a housing voucher. When the family finds a suitable housing unit and funding is available, BHHC 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. BHHC continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

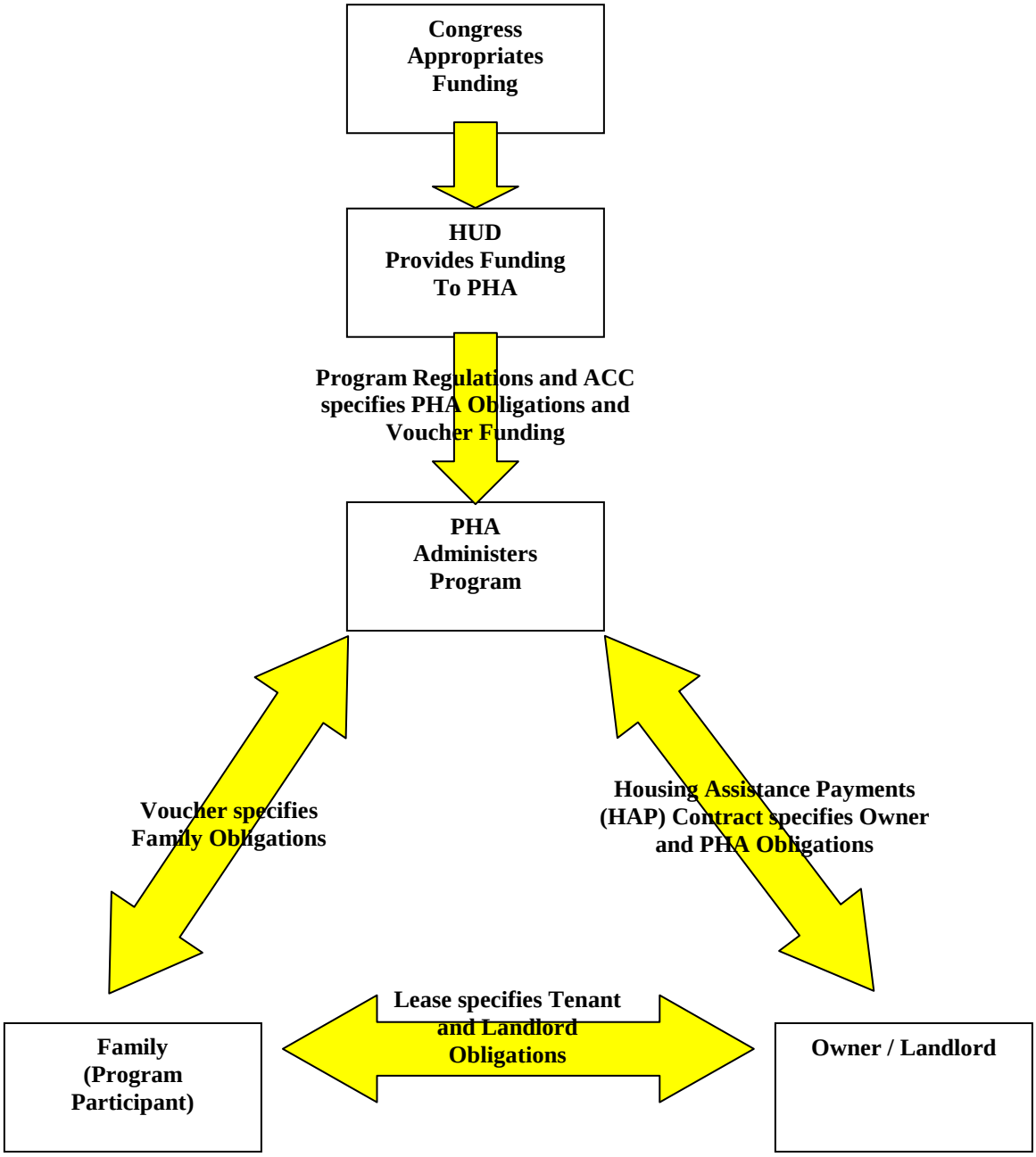
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, BHHC enters into a contractual relationship with HUD. BHHC 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, BHHC, 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 BHHC;
- Provide technical assistance to BHHC on interpreting and applying HCV program requirements;
- Monitor BHHC's compliance with HCV program requirements and BHHC's performance in program administration.

What does BHHC do?

BHHC 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, BHHC'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.
  - BHHC 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 BHHC;
- 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 BHHC with complete and accurate information, determined by BHHC 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 BHHC;
- Allow BHHC to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify BHHC 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 BHHC of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead Based Paint
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project Based Vouchers

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 BHHC's agency plan. This administrative plan is a supporting document to BHHC's agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define BHHC'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.

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

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

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

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

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

  (Chapter 3).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs 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 PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

The PHA 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.

BHHC Policy

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates 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 PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PHA 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 Act of 2005 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 2, 2012
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

  BHHC Policy

  BHHC complies with all federal, state and local nondiscrimination laws; all federal, state and local nondiscrimination laws and ordinances apply to BHHC's day-to-day operations. Local law / BHHC is governed by and conducts its day-to-day operations in compliance to the Michigan Elliott-Larsen Civil Right Act and Michigan's Persons with Disabilities Civil Rights Act

2-I.B. NONDISCRIMINATION

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

The PHA 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.

BHHC Policy

BHHC will not discriminate on the basis of race, color, sex, religion, familial status, age, disability or national origin, marital status or sexual orientation or gender identity. [FR Notice 02/03/12]

BHHC Policy

BHHC does not identify any additional protected classes.

BHHC will not use any of these factors to:

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

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance 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 PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

BHHC Policy

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

BHHC will attempt to remedy discrimination complaints made against the PHA.

BHHC 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) and/or appropriate housing agencies."

PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES

2-II.A. OVERVIEW

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

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

BHHC Policy

BHHC 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 BHHC, 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 Choice Voucher Program Coordinator.

BHHC Housing Choice Voucher Coordinator and Property Housing Manager will serve as the agency Section 504/ADA Coordinator(s) and will be responsible for monitoring BHHC's compliance with this Policy. Individuals who have questions regarding this Policy, its interpretation or implementation should contact BHHC's Section 504/ADA Coordinator in writing, by telephone, or by appointment, as follows:

Wendy Gunn 504/ADA Coordinator for:
Housing Choice Voucher Program
721 Nate Wells Drive Benton Harbor, MI 49022
Phone Number: 269-927-3546 ext 19
Dedicated TTDY Phone Number: 269-927-6511
Facsimile Number: 269-927-5893

BHHC has adopted and implemented a Reasonable Accommodation Policy and Procedure.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

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

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

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

BHHC Policy

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

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

When verifying a disability, the PHA will follow the verification policies provided in Chapter 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 PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be requested.
- In the event that the PHA does receive information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [PIH Notice 2010-26

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

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

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

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

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

BHHC Policy

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

If BHHC 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 BHHC's operations), BHHC 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 BHHC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, BHHC 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. The notice will inform the family of the right to appeal BHHC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

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

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

BHHC 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 and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with BHHC 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 PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- PIH 2006-13, (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 PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2006-13 (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 PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

2-III.A. OVERVIEW

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

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

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

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

2-III.B. ORAL INTERPRETATION

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

BHHC Policy

BHHC 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, BHHC 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, BHHC 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 BHHC. 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.

BHHC Policy

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

BHHC 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, BHHC does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

BHHC Policy

If it is determined that BHHC serves very few LEP persons, and BHHC has very limited resources, BHHC 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 BHHC 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 PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

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

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

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

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

Definitions

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

A person with disabilities is a person who is disabled as defined in 42 U.S.C. 423 (the Social Security definition); is determined to have a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration; is substantially impeded in his or her ability to live independently; is of such nature that the ability to live independently could be improved by more suitable housing conditions; or has a developmental disability as defined in 42 U.S.C. 6001. Persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome are not excluded. For purposes of qualifying for public housing programs, where eligibility is linked to disability status, a person whose disability is based solely on any drug or alcohol dependence is excluded.

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - 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 PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA 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 PHA 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; FR Notice 02/03/12]

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

Family

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

The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics
Sexual orientation means homosexuality, heterosexuality or bisexuality

BHHC 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 PHA'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 PHA 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 PHA is bound by the court's determination of which family members continue to receive assistance.

BHHC 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.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, BHHC will abide by the court's determination.

In the absence of a judicial decision, or an agreement among the original family members,

BHHC will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

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.

BHHC 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.

BHHC 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.

BHHC 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

BHHC 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, BHHC 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.

PIN Notice 2005-16

In order to be eligible for program assistance, an applicant must meet income eligibility requirements, as established by Section 3(a)(1) and 8(o)(4) of the U.S. Housing Act of 1937 and implementing regulations at 24CFR 960.201 and 982.201.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

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 50-60 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, [FR Notice 02/03/12]]

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 PHA 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

In accordance with 24 CFR Part 5.403:
A disabled family is a family is one in which the head, spouse or sole member is a person with disabilities It may include two or more persons who are persons with disabilities living together or one or more persons with disabilities living with one or more live-in aides.

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 PHA 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.

BHHC Policy
A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.
Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.
A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

3.I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

The term *foster child* is 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. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13].

BHHC 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.

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

BHHC 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

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

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

BHHC Policy
If a child has been placed in foster care, BHHC 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

BHHC 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].

BHHC Policy
BHHC 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

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

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, 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 PHA 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.

BHHC 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.

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.

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

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the PHA 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, BHHC 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.

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]

  BHHC Policy

  BHHC 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 BHHC.

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

BHHC Policy

BHHC 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 PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA 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 PHA'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 PHA to request additional documentation of their status, such as a passport.

BHHC Policy

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

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA 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 PHA 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 PHA 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 PHA 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 PHA in accordance with program requirements [24 CFR 5.512(a)].

BHHC Policy

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

When BHHC 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 BHHC. The informal hearing with BHHC 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 new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.
If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].
Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

BHHC Policy

BHHC 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 PIH Notice 2012-10]
The applicant and all members of the applicant's household must disclose the complete and accurate Social Security Number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a household member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. 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.
These requirements do not apply to noncitizens who do not contend eligible immigration status.
In addition, each participant who has not previously disclosed a SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation requires to verify the SSN at the time of the next interim or regular reexamination or recertification.
Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.
The PHA 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.

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 PHA 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 PHA 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 PHA 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

BHHC Policy

BHHC 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.

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

Institution of Higher Education

The PHA 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

BHHC 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

BHHC 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 PHA 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 PHA 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.

BHHC Policy

For any student who is subject to the 5.612 restrictions, BHHC 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 BHHC determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, BHHC 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

BHHC 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, BHHC will determine the income eligibility of the student's parents as follows:

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

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

If the student's parents are divorced or separated, BHHC 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, BHHC 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. BHHC 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, BHHC 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 PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking. [24 CFR 5.2005 (b)].

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 PHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- 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 PHA 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 PHA to admit an otherwise-eligible family if the household member has completed a PHA-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).

  BHHC Policy

  BHHC will not admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 years for drug-related criminal activity, if BHHC is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by BHHC, or the person who committed the crime, is no longer living in the household.

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

  BHHC Policy

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

- The PHA 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.

  BHHC Policy

  In determining reasonable cause, BHHC 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. BHHC 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

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

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

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the PHA to deny assistance if the PHA 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.

BHHC 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 persons residing in the immediate vicinity; or

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 BHHC (including a BHHC employee or a BHHC contractor, subcontractor, or agent).

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

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

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

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

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

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]
HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing:

BHHC Policy

BHHC **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 or the Welfare to Work voucher program.
BHHC **will** deny assistance to an applicant family if:

The family does not provide information that BHHC or HUD determines is necessary in the administration of the program.
The family does not provide complete and true information to BHHC.
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 owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, 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 BHHC personnel.

Abusive or violent behavior towards BHHC 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, BHHC will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, BHHC may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA 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 PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

BHHC Policy

BHHC 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, BHHC will request a fingerprint card and will request information from the National Crime Information center (NCIC).

PHAs are 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 BHHC proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, BHHC 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 PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

BHHC Policy

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

BHHC Policy

BHHC 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. BHHC will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

BHHC Policy

BHHC 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 PHA 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).

BHHC Policy

BHHC 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
    - BHHC 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 PHAs 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.

BHHC Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit. After admission to the program, the family must present evidence of the former family member's current address upon BHHC's request.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]
If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BHHC Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, BHHC will determine whether the behavior is related to the disability. If so, upon the family's request, BHHC will determine whether alternative measures are appropriate as a reasonable accommodation. BHHC 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 PHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the PHA 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.

BHHC Policy

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

If a PHA 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 PHA 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 PHA 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)].

BHHC Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible BHHC 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 BHHC to dispute the information within that 10-day period, BHHC 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
[24 CFP Part 5 - Final Guidance Federal Register October2010]

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:

> Every contract for contributions shall provide that . . . the housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

- 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 of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

BHHC Policy

BHHC acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under BHHC's policies. Therefore, if BHHC makes a determination to deny admission to an applicant family, BHHC will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP and will request that an applicant wishing to claim this protection notify BHHC within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

BHHC Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, or stalking, BHHC will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VVII.D of this ACOP.

Perpetrator Documentation

BHHC Policy

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

> A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the housing unit

Applicant must provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. 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.

Notification and Victim Documentation

BHHC Policy

BHHC acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under the BHHC's policies. Therefore, if BHHC makes a determination to deny admission to an applicant family on the basis of an unfavorable history, BHHC 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. Documentation must be made in writing and delivered to BHHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHHC's notification of denial of admission. Any documentation or information received from reporting agencies will be kept in a secure location and access will be limited to authorized BHHC staff. Documentation will be kept on file for a period of 10days after which the documents will be destroyed. In the event that an applicant requests an informal hearing the documentation will be disposed of after the disposition of the requested informal hearing.
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
One of the following:

A police or court record documenting the actual or threatened abuse
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 hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, BHHC will grant an extension of 10 business days, and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant BHHC determines the family is eligible for assistance, no informal hearing will be scheduled and BHHC will proceed with admission of the applicant family.

BHHC Confidentiality Requirements

All information provided to BHHC 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.

BHHC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BHHC staff.

BHHC 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.

In addition, BHHC will ensure that all applicant and participant information and files are maintained in a secure locked file cabinet in a way that protects an individual's privacy rights.

Applicant files will not be shared with a database nor provided to any related entity, except where written permission by the applicant is given to BHHC.

Applications will be stored for no less than (5) five years. If the applicant is determined to be eligible, the criminal history report shall be shredded as soon as the applicant is housed. The file will be noted that a Criminal Background check was performed. Applicant denied housing, due to an unfavorable criminal background history. The file will be noted with the statement *adverse reporting*. The actual report will be kept in a separate locked file cabinet. The information will only be retained during the allotted time limit granted by BHHC's grievance procedures. Once the time limit has expired and if there has been no request made by the applicant for a hearing, the record will be shredded. BHHC will shred negative criminal background reports

BHHC Policy

BHHC has implement a system of records management that ensures that any criminal record received by BHHC from a law enforcement agency is confidentially maintained, it will not be misused or improperly disseminated, and will be destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to BHHC.

3-III.H. NOTICE OF ELIGIBILITY OR DENIAL

The PHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHA 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 PHA 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)].

BHHC Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, BHHC 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 BHHC to dispute the information within that 10 day period, BHHC 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 hearing process.

Notice requirements related to denying admission 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.F.

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

BHHC Policy

BHHC acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history that would warrant denial under BHHC's policies. Therefore, if BHHC makes a determination to deny admission to an applicant family, BHHC 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. Documentation must be made in writing and delivered to BHHC either in person or by first class mail, by the close of the business day no later than 10 business days from the date of BHHC's notification of denial of admission. Any documentation or information received from reporting agencies will be kept in a secure location and access will be limited to authorized BHHC staff. Documentation will be kept on file for a period of 10days after which the documents will be destroyed. In the event that an applicant requests an informal hearing the documentation will be disposed of after the disposition of the requested informal hearing.

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, BHHC 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 BHHC determines the family is eligible for assistance, no informal review will be scheduled and BHHC will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

BHHC Policy

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, BHHC 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.

BHHC Confidentiality Requirements
All information provided to BHHC 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.

BHHC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorize BHHC Staff.
BHHC 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.
In addition, BHHC will ensure that all applicant and participant information and files are maintained in a secure locked file cabinet in a way that protects an individual's privacy rights. Applications will be stored for no less than (5) five years. If the applicant is determined to be eligible, the criminal history report shall be shredded as soon as the applicant is housed. The file will be noted that a Criminal Background check was performed. Applicant denied housing, due to an unfavorable criminal background history. The file will be noted with the statement adverse reporting. The actual report will be kept in a separate locked file cabinet. The information will only be retained during the allotted time limit granted by BHHC's grievance procedures. Once the time limit has expired and if there has been no request made by the applicant for a informal review, the record will be shredded. BHHC will shred negative criminal background reports.

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 PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA 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 PHA 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 PHA 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 PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA 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 PHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the PHA'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 PHA will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA 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 PHA 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 PHA'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 PHA'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 PHA 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 PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as a part of the PHA's application [Notice PIH 2009-36]

BHHC Policy

Depending upon the length of time that applicants may need to wait to receive assistance, BHHC may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when 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, BHHC 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 BHHC'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.

Completed applications must be returned to BHHC by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by BHHC for processing. If an application is incomplete, BHHC 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 PHA 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 PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA 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 PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA 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 PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

BHHC Policy

If BHHC 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, BHHC 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

BHHC Policy

BHHC 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 BHHC.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

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

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

The PHA's HCV waiting list must be organized in such a manner to allow the PHA 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 PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

BHHC Policy

The PHA 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 BHHC 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 BHHC maintain a single merged waiting list for their public housing, Section 8 HCV, 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.

BHHC Policy

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

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

Closing the Waiting List

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

BHHC Policy

BHHC will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where BHHC has particular preferences or funding criteria that require a specific category of family, BHHC 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 PHA 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.

BHHC Policy

BHHC 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 notice will specify where, when, and how applications are to be received.

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

Herold Palladium

Benton Spirit

South Bend IN Newspaper

Local Radio stations

Public Access TV Station

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

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

Because HUD requires the PHA to serve a specified percentage of extremely low income families (see Chapter 4, Part III), the PHA 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].

PHA 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

PHA 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

BHHC Policy

BHHC will monitor the characteristics of the population being served and the characteristics of the population as a whole in BHHC'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

BHHC Policy

While the family is on the waiting list, the family must inform BHHC, within 10 business days, of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualifications for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

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

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

Purging the Waiting List

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

BHHC Policy

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

To update the waiting list, BHHC will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that BHHC 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 BHHC not later than 15 business days from the date of BHHC's letter.

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

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal review will be offered. Such failures to act on the part of the

applicant prevent BHHC from making an eligibility determination; therefore no informal review is required.

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

Removal from the Waiting List

BHHC Policy

BHHC will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal review is required.

If at any time an applicant family is on the waiting list, BHHC 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 BHHC has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the BHHC'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 PHA 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 PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA'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 PHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. 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.

BHHC Policy

BHHC dose not administers any special types of targeted funding at this time:

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

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

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

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

BHHC Policy

BHHC will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.

BHHC will use the following local preference:

BHHC will establish a preference for 'working families', where the head, spouse, cohead, or sole member is employed at least 30 hours per week. Applicants must be gainfully employed for at least six (6) months and have a least 30 hours per week. Applicants must also retain employment for at least one year up to their anniversary date. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities will also be given the benefit of the working preference. [24CFR 960.206(b)(2)]

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 PHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, a PHA 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)].

BHHC Policy

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

Order of Selection

The PHA system of preferences may select families either 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 PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are 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)].

BHHC Policy

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the BHHC's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by BHHC. Documentation will be maintained by BHHC as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that BHHC 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 PHA must notify the family.

BHHC Policy

BHHC 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 BHHC with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

4-III.E. THE APPLICATION INTERVIEW

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family id otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2012-10].

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

BHHC Policy

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

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

The interview will be conducted only if the head of household or spouse/cohead 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.

Pending disclosure and documentation of social security numbers, BHHC will allow the family to retain its place on the waiting list for 60 days. If not all household members have disclosed their SSNs at the next time a unit becomes available, BHHC will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, BHHC will proceed with the interview. If BHHC determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, BHHC 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, BHHC will provide translation services in accordance with BHHC's LEP plan.

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

The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents BHHC from making an eligibility determination, therefore BHHC will not offer an informal review. A notice of denial will be issued.

4-III.F. COMPLETING THE APPLICATION PROCESS

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA 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.

BHHC Policy

If BHHC determines that the family is ineligible, BHHC 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), the family will be returned to its original position on the waiting list. BHHC will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If BHHC determines that the family is eligible to receive assistance, BHHC 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 PHA 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 PHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on the PHA'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 PHA 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 PHA'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 PHA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains the PHA'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 PHA 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 PHA 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.

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

Notification and Attendance

BHHC 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, a notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any alternate address provided on the initial application.
Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. BHHC will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without BHHC 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 PHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.
- For families receiving Project Based Voucher, a description of any obligations of the family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.
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  BHHC Policy

  When BHHC-owned units are available for lease, BHHC will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a BHHC-owned unit.

Briefing Packet [24 CFR 982.301(b)]-Documents and information provided in the briefing packet must include the following:

- The term of the voucher, and the PHA's policies on any extensions or suspensions of the term. If the PHA 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 PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA 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 PHA 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 PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Notification regarding applicable provisions of the VAWA Violence Against Women Act.
- Notification on Civil Right Requirements in accordance with Reasonable Accommodations.
- HUD Form – 52675 Debt Owed to Public Housing Agencies and Termination Notice

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

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

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2010-19].

BHHC Policy

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

When PHA-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease and is not obligated to choose a PHA-owned unit

Information on how to fill out and file a housing discrimination form

Information about the protections afforded by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, and stalking (see section 16-IX.C)

Information about the protections afforded by the Protecting Tenants at Foreclosure Act (PTFA) (see section 13-II.G)

"Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

"What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

HUD Form- 52675 Debt Owed to Public Housing Agencies and Termination Notice

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 PHA 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

BHHC Policy

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

  BHHC Policy

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA 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.

  BHHC Policy

  BHHC will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.
  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

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

  BHHC Policy

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

- The family must promptly give BHHC 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 BHHC.

The family must promptly notify BHHC in writing of the birth, adoption, or court-awarded custody of a child. The family must request BHHC's approval to add any other family member as an occupant of the unit.

BHHC Policy

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

- The family must promptly notify BHHC in writing if any family member no longer lives in the unit.

- If BHHC has given approval, a foster child or a live-in aide may reside in the unit. BHHC has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when BHHC 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.

  BHHC 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 BHHC to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify BHHC when the family is absent from the unit.

  BHHC 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 BHHC 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 PHA 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 PHA 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

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

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

- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

  BHHC Policy

  BHHC 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 5) will be allocated separate bedrooms.
  Live-in aides will be allocated a separate bedroom.
  Single person families will be allocated one bedroom.

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

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

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

BHHC Policy

BHHC 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, unless the disability and the disability–related request for accommodation is readily apparent or otherwise known.
BHHC will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

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 PHA 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 PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA 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 PHA's housing choice voucher program [Voucher, form HUD-52646]
A voucher can be issued to an applicant family only after the PHA 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].

BHHC Policy

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

BHHC 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, BHHC must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

BHHC Policy

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

If BHHC determines that there is insufficient funding after a voucher has been issued, BHHC 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)].

BHHC Policy

The initial voucher term will be 60 calendar days.
The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless BHHC grants an extension.

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

The PHA 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 PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHA's 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 PHA's decision to approve or deny an extension. The PHA'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)].

BHHC Policy

BHHC will automatically approve one 30-day extension upon written request from the family.
BHHC will approve additional extensions only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by the BHHC. Following is a list of extenuating circumstances that BHHC 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 BHHC
  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. BHHC 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 BHHC prior to the expiration date of the voucher (or extended term of the voucher). BHHC will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision.

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

At its discretion, a PHA 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 PHA approves or denies the request [24 CFR 982.4]. The PHA's determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

BHHC Policy

When a Request for Tenancy Approval and proposed lease is received by BHHC, the term of the voucher will not be suspended while BHHC 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 PHA 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].

BHHC Policy

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), BHHC 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 BHHC (after the voucher term has expired), the family will be required to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, BHHC 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 PHA's subsidy. The PHA 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 PHA 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 PHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA 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.
> (a) Annual income means all amounts, monetary or not, which:
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
> (3) Which are not specifically excluded in paragraph [5.609(c)].
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

- Annual Income Inclusions (Exhibit 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	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

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].

BHHC 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

BHHC 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 BHHC 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].

BHHC Policy

If a child has been placed in foster care, BHHC 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

BHHC 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

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].

BHHC Policy

BHHC 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.
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 qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

BHHC 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, BHHC 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

BHHC Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, BHHC 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 BHHC 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.

6-I.C. ANTICIPATING ANNUAL INCOME

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

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

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

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

BHHC Policy

When EIV is obtained and the family does not dispute the EIV employer data, BHHC will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, BHHC will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.
BHHC will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

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

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

When BHHC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), BHHC 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 BHHC to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If BHHC 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 PHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases BHHC will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs.

This requirement will be imposed even if BHHC's policy on reexaminations does not require interim reexaminations for other types of changes.

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

- EIV quarterly wages will not be used to project annual income or interim re-examination.

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

BHHC Policy

BHHC 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 BHHC's interview date.
BHHC 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, BHHC will follow these guidelines:

If the UIV figure is less than the family's figure, BHHC will use the family's information.
If the UIV figure is more than the family's figure, BHHC 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, BHHC 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, BHHC will follow these guidelines:

BHHC will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).
When BHHC cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), BHHC will review historical income data for patterns of employment, paid benefits, and receipt of other income.
BHHC will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.
BHHC 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)].

BHHC Policy

For persons who regularly receive bonuses or commissions, BHHC will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, BHHC will use the prior year amounts. In either case the family may provide, and BHHC 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, BHHC will count only the amount estimated by the employer.

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.

BHHC 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 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 [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)].

BHHC Policy

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

BHHC 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, BHHC 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 BHHC'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 HCV administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

BHHC 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."

BHHC Policy

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

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

Initial 12-Month Exclusion

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

BHHC 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.

BHHC Policy

During the 48-month eligibility period, BHHC 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 pre-qualifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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].

BHHC Policy

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

Business Expansion

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

BHHC Policy

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

Capital Indebtedness

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

BHHC Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

BHHC 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, BHHC 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

BHHC 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.

Individual Savings Account [24 CFR 960.255(d)]

BHHC Policy

BHHC chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

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 PHA 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 PHA 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 PHA policies related to each type of asset.

General Policies

Income from Assets

The PHA 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 PHA 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 PHA 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 PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

BHHC 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 BHHC 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 PHA 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.

BHHC 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 PHA 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 PHA 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 HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

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

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."

BHHC Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, BHHC 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, BHHC will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, BHHC 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 PHA 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 PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

BHHC Policy

BHHC 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 re-certifications, the family may request an interim re-certification 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.

BHHC 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

BHHC 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. BHHC may verify the value of the assets disposed of if other information available to BHHC 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.

BHHC Policy

In determining the value of a checking account, BHHC will use the average monthly balance for the last six months.
In determining the value of a savings account, BHHC will use the current balance.
In determining the anticipated income from an interest-bearing checking or savings account, BHHC 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.

BHHC Policy

In determining the market value of an investment account, BHHC 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), BHHC 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].

BHHC Policy

In determining the equity, BHHC will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

BHHC will first use the payoff amount for the loan (mortgage)as the unpaid balance to calculate equity. If the pay off amount is not available, BHHC will use the basic loan balance information to deduct from the market value in the equity calculation.

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

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- 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]

The PHA must also deduct from the equity the reasonable cost for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan(mortgage) minus the expenses to convert to cash PIH Notice 2012-3

BHHC Policy

For the purpose of calculating expenses to convert to cash for real property, BHHC will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

BHHC 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 BHHC 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 PHA 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].

BHHC Policy

In determining the value of personal property held as an investment, BHHC will use the family's estimate of the value. BHHC may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot change any cost 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)].

BHHC Policy

Necessary personal property consists of only those items not held as an investment. It 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)].

BHHC Policy

When a delayed-start payment is received and reported during the period in which BHHC is processing an annual reexamination, BHHC will adjust the family share and BHHC's 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 BHHC.

Treatment of Overpayment Deductions from Social Security Benefits

BHHC must make a special calculation of annual income when the Social Security Administration (SSA) overpayments an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and the duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [PIH Notice 2012-1]

  BHHC Policy
  BHHC 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)].

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 PHA 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 PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency inform the PHA 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 PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

BHHC Policy

BHHC will count court-awarded amounts for alimony and child support unless BHHC 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 PHA must count as income regular monetary and non-monetary 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)].

BHHC 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.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by BHHC. For contributions that may vary from month to month (e.g., utility payments), BHHC 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 PHA will use the definitions of *dependent child, institution of higher education,* and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

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

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:
> (1) $480 for each dependent;
> (2) $400 for any elderly family or disabled family;
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

BHHC Policy

Generally, BHHC 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), BHHC will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, BHHC 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. BHHC 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 any household member with a disability, and/or 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 for any household member with a disability. If a family member 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."

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

Families That Qualify for Both Medical and Disability Assistance Expenses

BHHC Policy

This policy applies only to families in which any household member with a disability qualifies for the household deduction.
When expenses anticipated by a family could be defined as either medical or disability assistance expenses, BHHC will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

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.

BHHC 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, BHHC 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 BHHC determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

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

BHHC Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

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

BHHC 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, BHHC 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.

BHHC Policy

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

BHHC 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, BHHC 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

BHHC 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, BHHC 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

BHHC 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 BHHC.

Furthering Education

BHHC 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

BHHC 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 PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

BHHC 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, BHHC 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 PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

BHHC 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, BHHC 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.

BHHC 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, BHHC will use the schedule of child care costs from the local welfare agency. Families may present, and BHHC will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND PHA 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 PHA

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

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

Welfare Rent [24 CFR 5.628]

BHHC Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

BHHC Policy

The minimum rent for this locality is $50.00.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 CFR 982.505(b)]
The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]
When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

BHHC Policy

BHHC will make utility reimbursements to the family. The family will decide annually what utility company their utility reimbursement payment will be forwarded to monthly.

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

BHHC Policy

The financial hardship rules described below applies in this jurisdiction because BHHC has established a minimum rent of $50.00.

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship. The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(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.

BHHC 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.

BHHC 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.

BHHC Policy

n 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 PHA.

BHHC Policy

BHHC has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.
The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

BHHC Policy

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

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

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

BHHC 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.
BHHC will make the determination of hardship within 30 calendar days.

No Financial Hardship

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

BHHC Policy

BHHC will require the family to repay the suspended amount within 30 calendar days of BHHC's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA 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 PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

BHHC Policy

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

Long-Term Hardship

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

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

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

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

If the PHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

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

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

Changes in Payment Standards

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

Decreases

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

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

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

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

Increases

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

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

Changes in Family Unit Size

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

Reasonable Accommodation

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

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

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using PHA subsidy standards. See Chapter 5 for information on the PHA's subsidy standards. For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed. The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

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

BHHC 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 PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

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 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

[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 (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as 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.

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

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, Notice PIH 2010-19]

INTRODUCTION

The PHA 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 PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA 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 PHA.

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

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

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

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

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

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

BHHC Policy

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

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

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

BHHC 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 BHHC. The documents must not be damaged, altered or in any way illegible.
Print-outs from web pages are considered original documents.
The BHHC 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 BHHC and must be signed in the presence of a BHHC representative or BHHC notary public.

BHHC 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, BHHC would accept the most recent report.

File Documentation

The PHA 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 PHA 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.

BHHC Policy

BHHC will document, the family file with the following information:
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 BHHC is unable to obtain 3rd party verification, BHHC will document in the family file the reason that third-party verification was not available and will place a photocopy of the original document(s) in the family file [24CFR 960.259(c)(1); Notice PIH 2010-19]

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

Up-front income verification (UIV) refers to the PHA'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 PHA.
There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken against a family until BHHC 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 BHHC.
See Chapter 6 for policy related to the use of UIV/EIV to project income.

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

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for resident/participant families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income Report

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

BHHC Policy

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

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

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

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

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

EIV Discrepancy Reports

The EIV discrepancy report is a tool for identifying families who may have concealed or underreported income. Data in the discrepancy reports represents income for past reporting periods and may be between 6 and 30 months old at the time reports are generated.
Families that have not concealed or underreported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.
Income discrepancies may be identified through use of the EIV "Income Discrepancy Report" or review of the discrepancy tab for the individual family.

BHHC Policy

BHHC will generate the Income Discrepancy Report at least once every 6 months.
When BHHC determines that a participant appearing on the Income Discrepancy Report has not concealed or underreported 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 discrepancy processing until a subsequent interim or annual reexamination has been completed.
BHHC will review the EIV discrepancy tab during processing of annual and interim reexaminations.
When it appears that a family may have concealed or underreported income, BHHC will request independent written third-party verification of the income in question.
When BHHC determines through file review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

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

EIV Identity Verification

The EIV system verifies resident/participant identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.
PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10]
When identity verification for a resident/participant fails, a message will be displayed within the EIV system and no income information will be displayed.

BHHC Policy

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

BHHC will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When BHHC determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, BHHC will correct the error promptly.

Upfront Income Verification Using Non-HUD Systems
In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

BHHC Policy

BHHC 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 BHHC)

BHHC must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

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

Reasonable Effort and Timing

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

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

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

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

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

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

BHHC Policy
Third-party documents provided by the family must be dated within sixty (60) days of the BHHC's request date.

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

As verification of earned income, BHHC will request pay stubs covering the sixty (60) day period prior to BHHC's request date.

Written Third-Party Verification Form

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

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

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

BHHC Policy

BHHC will send third-party verification forms directly to the third party.
Third-party verification forms will be sent when third-party verification documents are unavailable or if the provided third party verification is rejected by BHHC.

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

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

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

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

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

BHHC Policy

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

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

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

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

BHHC Policy
If the family cannot provide original documents, BHHC 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].

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.

BHHC Policy
BHHC will not require third-party verification when the documentation is a legal document.

Imputed Assets

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

BHHC Policy
BHHC will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

7-I.E. SELF-CERTIFICATION

Self-certification, or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification. When the PHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

BHHC 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 BHHC.

BHHC 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 BHHC 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 BHHC representative or BHHC notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

BHHC Policy

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

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

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

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

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

An original SSN card issued by the Social Security Administration (SSA)

An original SSA-issued document, which contains the name and SSN of the individual

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual,

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

BHHC Policy

The PHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to BHHC within 90 days.

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

BHHC Policy

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

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and

accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

BHHC Policy

BHHC will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

BHHC Policy

BHHC will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once an individual's status is classified as "verified" in HUD's EIV system, BHHC may at its discretion remove and destroy copies of documentation accepted as evidence of social security numbers . The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

BHHC Policy

Once an individual's status is classified as "verified" in HUD's EIV system, BHHC will remove and destroy copies of documentation accepted as evidence of social security numbers .

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.

BHHC Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, BHHC 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.

BHHC 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

BHHC Policy

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

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

In the case of a common law marriage, the couple must demonstrate that they hold themselves 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

BHHC Policy

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

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

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

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

Absence of Adult Member

BHHC Policy

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

Foster Children and Foster Adults

BHHC 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

BHHC Policy

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

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further 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.

BHHC Policy

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

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities as defined in Section 3-IIE, and was receiving assistance prior to November 30, 2005.

If BHHC cannot verify at least one of these exemption criteria, BHHC 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, BHHC 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 next section).

Independent Student

BHHC Policy

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

Either reviewing 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 PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA 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].

BHHC Policy

For family members claiming disability who receive disability benefits from the SSA, BHHC will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, BHHC 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), BHHC 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 BHHC.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

BHHC 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 PHA 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 18 or older and by a guardian for minors.

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

BHHC Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless BHHC 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 7-2 at the end of this chapter summarizes documents family members must provide.

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

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

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant.

BHHC Policy

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

BHHC will offer a preference for working families.

BHHC will verify that the family qualifies for the working preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 30 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

BHHC will seek 3rd party verification from the employer of the head, spouse, co-head or sole member of a family requesting a preference as a working family.

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 PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

BHHC 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

BHHC 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.

BHHC 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 BHHC 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, BHHC 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 BHHC 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

BHHC Policy

To verify the SS/SSI benefits of applicants, BHHC will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), BHHC will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to BHHC.

To verify the SS/SSI benefits of participants, BHHC will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, BHHC 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) BHHC will help the participant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to BHHC.

7-III.D. ALIMONY OR CHILD SUPPORT

BHHC Policy

The way BHHC 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.

- Copy of the receipts and/or payment stubs for the 60 days prior BHHC request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

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

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

BHHC Policy

BHHC will verify the value of assets disposed of only if:

BHHC does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

BHHC 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, BHHC 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

BHHC Policy

BHHC will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original documents that will be accepted depends upon the family member's retirement status.

Before retirement, BHHC 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, BHHC 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, BHHC 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 PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

BHHC Policy

BHHC 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, BHHC will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

BHHC Policy

BHHC will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

BHHC 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), BHHC will request written third-party written verification of both the source and the amount. Family provided documents from the educational institution attended by the student as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, BHHC will request written verification from the institution of higher education regarding the student's tuition amount.

If BHHC is unable to obtain third-party written verification of the requested information, BHHC will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA 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.

BHHC Policy

If BHHC is required to determine the income eligibility of a student's parents, BHHC will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). BHHC 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 BHHC. The required information must be submitted (postmarked) within 10 business days of the date of BHHC's request or within any extended timeframe approved by BHHC.

BHHC 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 PHA 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 PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

BHHC Policy

- Medical expenses will be verified through:
- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- BHHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. BHHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.
- Copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case BHHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. BHHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months. If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, BHHC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA 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 PHA'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.

BHHC 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

BHHC Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, BHHC 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-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

BHHC Policy

BHHC will accept written third-party documents provided by the family.
If family provided documents are not available, BHHC will provide a third-party verification form directly to the care provider requesting the needed information.
Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

BHHC Policy

Expenses for auxiliary apparatus will be verified through:
Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
Third-party verification form signed by the provider, if family-provided documents are not available.
If third-party verification is not possible, written familt certification of estimated apparatus cost for the upcoming 12 months.

In addition, BHHC must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

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 PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

BHHC Policy

BHHC 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-II.E.).

This documentation may be provided by the family.

If third-party 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.

BHHC 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 PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

BHHC 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 PHA 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.

BHHC Policy

Information to be Gathered

BHHC 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, BHHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases BHHC will request verification from the agency of the member's job seeking efforts to date and require the family to submit to BHHC any reports provided to the other agency. In the event third-party verification is not available, BHHC will provide the family with a form on which the family member must record job search efforts. BHHC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

BHHC will request third-party documentation to 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. The documentation may be provided by the family.

Gainful Employment

BHHC will seek third-party verification 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. The documentation may be provided by the family.

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.

BHHC Policy

BHHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).
BHHC 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).

BHHC 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.

BHHC Policy

The actual costs the family incurs will be compared with BHHC'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, BHHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: • "Admitted as a Refugee Pursuant to Section 207" • "Section 208" or "Asylum" • "Section 243(h)" or "Deportation stayed by Attorney General" • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"	• Form I-94 Arrival-Departure Record with no annotation accompanied by: • A final court decision granting asylum (but only if no appeal is taken); • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

EXHIBIT 7-2: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14)

Level	Verification Technique	Ranking
6	**Upfront Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system - (not available for income verification of applicants)	**Highest** (Mandatory)
5	**Upfront Income Verification** (UIV) using non-HUD Systems	**Highest** (Optional)
4	Written Third Party Verification	**High** (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support dispute)
3	**Written Third Party Verification Form**	**Medium-Low** (Mandatory if written third-party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	**Oral Third Party Verification**	**Low** (Mandatory if written third-party verification is not available)
1	**Tenant Declaration**	**Low** (Use as a last resort when unable to obtain any type of third-party verification)

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 agreement with State Wage Information Collection Agency (SWICA) to obtain wage information electronically via mail or fax or in person Accounts with private vendor agencies, such as The Work Number or direct contact to obtain wage and salary information. Use of HUD system (when available)	The PHA mails, faxes or e-mails verification form directly to the independent source to obtain wage information. The PHA may have the tenant sign a Request for Earnings Statement. Both the SSA to verification and the PHA mails the form to SSA and the statement will be sent to the address on the PHA's verification form.	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 telephone or in person to complete the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (Hint: request the most recent three consecutive pay stubs). If employed by the same employer for two months or more, W-2 forms for the last two years. Note: The PHA must document in the tenant file why third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant declaring income, assets and expenses. Note: This method should only be used when third party verification is not available.

Verification of Employment Income. The PHA should always obtain as much information as possible about the employment, including: the name and address of the employer; the employee's occupation; type of work; pay rate; hours per week; probability of the employee's continuing employment with the employer; and any other information that may affect the employee's income.

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 a source identified by the family to obtain income information	The PHA may call a known source of income or financial institution	The PHA may consider any documents, pay stubs or 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 self-certification and all documentation submitted by the tenant. The family's certification must be made in a format acceptable to the PHA. 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 difficult for PHAs to verify or find any third party verification of self-employment income. When this is the case, the PHA should always require some sort of tenant declaration that includes a perjury statement					
Social Security/SSI	Use of HUD's Tenant Assessment System (TASS) to obtain benefit information. Enterprise Income Verification 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 to verify benefit information. Local SSA office may be helpful. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may review original award notice or print-out from the local Social Security Administration 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 self-certification and all documentation submitted by the tenant. Note: The PHA must document in the tenant file the reason third party verification was not available
Welfare Benefits	Use of HUD's TASS matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or face-to-face person	The PHA mails or faxes 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 print-out 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 self-certification and all documentation submitted by the tenant. 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 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 Third Party form directly to the Local Child Support Enforcement Agency or child support payee to obtain current child support amount and payment status.	The PHA may call the Local Child Support Enforcement Agency or child support payee to obtain current child support amount and payment status.	The PHA may review an original document issued by 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 other tenant declaration and the tenant's 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 an automated matching agreement with the State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person Use of TWN systems, when available.	The PHA mails, faxes or e-mails a Third Party 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 unemployment compensation amount.	The PHA may review an original notice of unemployment benefits 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 other tenant declaration of unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pension	Use of an automated matching agreement 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 written form directly to the pension provider to obtain pension information	The PHA may call the pension provider to obtain current pension amount.	The PHA may review an original or a faxed 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 self-declaration 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 an [illegible] system to verify assets and income information electronically, by mail or in person	The PHA may, [illegible] verify assets and income directly with a source to obtain asset and asset income information	The PHA may sell [illegible] assets 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 statement of current and [illegible] 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 [illegible] unemployment and SSA information, the PHA should use the information as part of the reexamination process. Failure to [illegible] disallowed costs during a SIMI review.	Note: The independent [illegible] the farm directly to the PHA. Agency. The tenant should not submit any documents to or from the independent source	The PHA should document in the [illegible] the name and title of the person who verifies the current income amount		The PHA should use this verification [illegible] assets, when all other verification sources 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.)

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 PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements. HQS 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 PHAs 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 PHA 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 PHA will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

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

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 PHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic 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.

BHHC Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to BHHC for review.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA 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 PHA 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 PHA 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.

BHHC Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

BHHC Policy

As permitted by HUD, BHHC has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

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

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

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

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

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.

8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

BHHC Policy

The following are considered life threatening conditions:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

If an owner fails to correct life threatening conditions as required by BHHC, 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 BHHC, BHHC may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless BHHC 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.

8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the PHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections*. HUD requires the PHA 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.
- *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 PHA-owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

Inspection Costs

The PHA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

BHHC Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, BHHC will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

BHHC 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, BHHC 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 PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

BHHC Policy

BHHC 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

BHHC 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 BHHC for good cause. BHHC will reinspect the unit within 5 business days of the date the owner notifies BHHC that the required corrections have been made.

If the time period for correcting the deficiencies (or any BHHC-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, BHHC will notify the owner and the family that the unit has been rejected and that the family must search for another unit. BHHC 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.

BHHC Policy

If utility service is not available for testing at the time of the initial inspection, BHHC will allow the utilities to be placed in service after the unit has met all other HQS requirements. BHHC will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by BHHC.

Appliances

BHHC Policy

If the family is responsible for supplying the stove and/or refrigerator, BHHC will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by BHHC. BHHC will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8.II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

BHHC Policy

If an adult family member cannot be present on the scheduled date, the family should request that BHHC reschedule the inspection. BHHC and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. BHHC may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, BHHC will automatically schedule a second inspection. If the family misses two scheduled inspections without BHHC approval, BHHC 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 PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

BHHC Policy

During a special inspection, BHHC 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 BHHC 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 PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

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 PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

BHHC Policy

When life threatening conditions are identified, BHHC will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of BHHC's notice.

When failures that are not life threatening are identified, BHHC will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any BHHC-approved extension), the owner's HAP will be abated in accordance with BHHC's 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 BHHC-approved extension, if applicable) the family's assistance will be terminated in accordance with BHHC policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

BHHC Policy

Extensions will be granted in cases where BHHC 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 15 calendar days, once the weather conditions have subsided.

Reinspections

BHHC Policy

BHHC will conduct a reinspection immediately following the end of the corrective period, or any BHHC 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, BHHC will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with BHHC policies. If BHHC is unable to gain entry to the unit in order to conduct the scheduled reinspection, BHHC 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.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must 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 PHA, HUD requires the PHA 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.

BHHC Policy

BHHC will make all HAP abatements effective the first of the month following the expiration of BHHC specified correction period (including any extension).

BHHC 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 PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

BHHC Policy

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies BHHC before the termination date of the HAP contract, BHHC 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 BHHC is 30 days.

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 PHA (and any extensions), the PHA 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.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

PHA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

BHHC 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, BHHC 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 BHHC will consider unit size and length of tenancy in the other units.

BHHC will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after BHHC's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

BHHC Policy

In addition to the instances described above, BHHC will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) BHHC determines that the initial rent reasonableness determination was in error or (2) BHHC determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Note: PIH Notice 2011-46 issued August 17, 2011 provides further guidance on these issues of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

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

Note: PHI Notice 2010-18; Units for which the owner has simply decided of his or her own volition to charge rents that are below what other tenants are charged and what the market might actually bear are not assisted units for the purpose of rent reasonableness determinations. Rents for these particular units in the property must be considered to establish if an HVC rent to owner is reasonable.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

BHHC Policy

BHHC will collect and maintain data on market rents in BHHC'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

BHHC 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. BHHC 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, BHHC 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 x 11 months = 5500/12 months = actual monthly rent of $488.

BHHC will notify the owner of the rent BHHC can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. BHHC 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 BHHC’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 openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities 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 Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

(8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 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 PHA 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 PHA 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 PHA 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 PHA, 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 PHA 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 PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA'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 PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager or their responsibility to comply with the obligations under the Violence against Women Act of 2005 (VAWA) [24 CFR 5.2005(a)(2)]. [Pub.L. 109-162]

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided in response to a PHA request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

BHHC Policy

BHHC will screen applicants for family behavior or suitability for tenancy.

BHHC will provide additional screening information to the owner.

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 PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA 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 PHA 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].

BHHC Policy

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and BHHC will not process, more than one (1) RTA at a time.

When the family submits the RTA BHHC 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, BHHC 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. BHHC will not accept missing information over the phone.

When the family submits the RTA and proposed lease, BHHC 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, BHHC 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. BHHC will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, BHHC will attempt to communicate with the owner and family by phone, fax, or email. BHHC will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA 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 PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

PHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA 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 PHA-owned unit without any pressure or steering by the PHA.

BHHC Policy

BHHC does not have any eligible BHHC-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 PHA 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 PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. 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 PHA 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 PHA. 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.

BHHC Policy

BHHC does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

BHHC Policy

BHHC will not approve an initial lease term of less than 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 PHA 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 PHA 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 PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

BHHC Policy

BHHC 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 PHA'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)].

BHHC Policy

BHHC permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

BHHC Policy

If the dwelling lease is incomplete or incorrect, BHHC 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. BHHC will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, BHHC will attempt to communicate with the owner and family by phone, fax, or email. BHHC will use mail when the parties can't be reached by phone, fax, or email.

BHHC 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 BHHC determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

BHHC Policy

BHHC will 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 PHA 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 PHA 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 PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must 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 PHA, 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)].

BHHC Policy

BHHC 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 BHHC, BHHC 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. BHHC will not accept corrections over the phone.

If BHHC determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. BHHC 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), BHHC 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 PHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the PHA 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 PHA has given approval for the family of the assisted tenancy, the owner and the PHA 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 PHA 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 PHA 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 PHA 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 PHA 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 PHA may not pay any housing assistance payment to the owner.

BHHC Policy

Owners who have not previously participated in the HCV program must attend a meeting with BHHC in which the terms of the Tenancy Addendum and the HAP contract will be explained. BHHC 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 BHHC. BHHC will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and BHHC will execute the HAP contract. BHHC will not execute the HAP contract until the owner has submitted IRS form W-9. BHHC 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 PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA 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 PHA 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 PHA 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 PHA 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 <u>not</u> 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)].

<u>BHHC Policy</u>

Where the owner is requesting a rent increase, BHHC 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 BHHC of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six 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 PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- 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)].

  BHHC Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give BHHC 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)]. The family must give BHHC a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably

believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)].

BHHC Policy

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, BHHC will request documentation in accordance with section 16-IX.D of this plan.

BHHC reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases BHHC will document the waiver in the family's file.

- BHHC has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- BHHC 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, BHHC must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, BHHC 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 BHHC 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 a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2008-43 significantly restricts the ability of PHAs to deny permission to move under portability sue to insufficient funding. The requirements found in this notice are mandatory.

BHHC Policy

BHHC will deny a family permission to move on grounds that BHHC does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or BHHC; (b) BHHC can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) BHHC can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget and HAP Reserves to accommodate the higher subsidy costs. This policy applies to moves within BHHC's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The PHA 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. [24 CFR 982.353(b)]

BHHC Policy

If BHHC has grounds for denying or terminating a family's assistance, BHHC 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 PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.)

BHHC Policy

BHHC will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within BHHC's jurisdiction or outside it under portability.

BHHC 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 BHHC's jurisdiction.

BHHC will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, BHHC 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 PHA 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 PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2011-3]. The notices must be in writing [24 CFR 982.5].

Approval

BHHC Policy

Upon receipt of a family's notification that it wishes to move, BHHC 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. BHHC 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

BHHC Policy

For families approved to move to a new unit within BHHC's jurisdiction, BHHC will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of BHHC's jurisdiction under portability, BHHC will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

BHHC Policy

For families approved to move to a new unit within BHHC's jurisdiction, BHHC will issue a new voucher within 10 business days of BHHC's written approval to move. No briefing is required for these families. BHHC 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 BHHC approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of BHHC's jurisdiction under portability, BHHC 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 PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART 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 PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

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, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

BHHC Policy

In determining whether or not to deny an applicant family permission to move under portability because BHHC lacks sufficient funding or has grounds for denying assistance to the family, BHHC will follow the policies established in section 10-I.B of this chapter.

In addition, BHHC may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

BHHC Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in BHHC's jurisdiction at the time the family's application for assistance was submitted, the family must live in BHHC's jurisdiction with voucher assistance for at least 12 months before requesting portability.

BHHC 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

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2005 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.353(b)].

BHHC Policy

BHHC will determine whether a participant family may move out of BHHC'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. BHHC 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 2011-3].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2011-3].

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.

BHHC Policy

For a participant family approved to move out of its jurisdiction under portability, BHHC 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.

BHHC will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

BHHC Policy

No formal briefing will be required for a participant family wishing to move outside BHHC's jurisdiction under portability. However, BHHC 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). BHHC will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. BHHC will advise the family that they will be under the RHA'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 PHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

BHHC Policy

For families approved to move under portability, BHHC will issue a new voucher within 10 business days of BHHC's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

BHHC Policy

BHHC will approve **no** extensions to a voucher issued to an applicant or participant family porting out of BHHC'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 BHHC'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 BHHC's (the initial PHA) 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.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2011-3].

BHHC Policy

BHHC will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2011-3]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

BHHC Policy

Because the portability process is time-sensitive, BHHC will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA (BHHC) will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. BHHC will pass this information along to the family. BHHC will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2011-3]
- A copy of the family's voucher [Notice PIH 2011-3]
- 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 2011-3]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(4), Notice PIH 2011-3]

BHHC Policy

In addition to these documents, BHHC will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)
Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
Documentation of legal identity
Documentation of citizenship or eligible immigration status
Documentation of participation in the earned income disallowance (EID) benefit
Documentation of participation in a family self-sufficiency (FSS) program

BHHC will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2011-3]

When the initial PHA 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 initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

BHHC Policy

If BHHC 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 on the next business day. If BHHC reports that the family is not yet under HAP contract, BHHC 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. BHHC will send the receiving PHA a written confirmation of its decision by mail.

BHHC 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 2011-3]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

BHHC Policy

BHHC- The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA (BHHC) that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR 982.314(e)(1), Notice PIH 201143]

The initial PHA 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.

BHHC Policy

If BHHC 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 BHHC's jurisdiction.

BHHC 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 2011-3]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA 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 initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA'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 receiving PHA [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 receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Responding to Initial PHA's Request

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date [Notice PIH 2011-3].

BHHC Policy

BHHC will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2011-3].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA 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 PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2011-3]. (See later under "Absorbing a Portable Family" for more on this topic.)

BHHC Policy

Within 10 business days after a portable family requests assistance, the receiving PHA will notify the initial PHA(BHHC) 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 receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2011-3]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2011-3].

BHHC Policy

BHHC will not require the family to attend a briefing. BHHC will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about BHHC's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. BHHC will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA 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 2011-3, 24 CFR 982.201(b)(4)]. The receiving PHA 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)].

BHHC Policy

For any family moving into its jurisdiction under portability, BHHC will conduct a new reexamination of family income and composition. However, BHHC will not delay issuing the family a voucher for this reason. Nor will BHHC delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and BHHC 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, BHHC will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2011-3].

BHHC Policy

When a family ports into its jurisdiction, BHHC 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 BHHC's procedures. BHHC will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

BHHC Policy

The receiving PHA's (BHHC) voucher will expire on the same date as the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2011-3]

The receiving PHA 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 receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

BHHC Policy

BHHC generally will not extend the term of the voucher that it issues to an incoming portable family unless BHHC plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

BHHC will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2008-43]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2011-3]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2011-3]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

BHHC Policy

BHHC will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH 2011-3].

Ongoing Notification Responsibilities [Notice PIH 2011-3, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

BHHC Policy

BHHC will send a copy of the updated HUD-50058 by regular mail at the same time the PHA and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2011-3]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2011-3]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2011-3.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2011-3]

BHHC Policy

If BHHC elects to deny or terminate assistance for a portable family, BHHC will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. BHHC will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (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 2011-3].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2011-3]

BHHC Policy

If BHHC decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, BHHC 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 BHHC decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The PHA 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 PHA 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 PHA 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 PHA 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].

BHHC Policy

BHHC will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, BHHC will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, BHHC will perform a new annual reexamination.

BHHC 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 PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However PHAs should give tenants who were not provided the opportunity to complete Form HUD-92006 at this time [Notice PIH 2009-36]

BHHC Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact BHHC 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 BHHC in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, BHHC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without BHHC approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and BHHC must 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 PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

BHHC 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 BHHC-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the 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 will be sent a notice of termination (See Chapter 12). ***BHHC will conduct and review quarterly EIV and Credit Reporting to determine if the information reported is accurate to prevent program abuse and fraud.***

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 re-verified 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 causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

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- 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 PHA 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.

BHHC Policy

During the annual reexamination process, BHHC 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), BHHC will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

BHHC 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 BHHC 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 BHHC, 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 BHHC 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 BHHC.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by BHHC by the date specified, and this delay prevents BHHC 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 PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA 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 PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA 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 PHA has limited discretion in this area.

BHHC Policy

BHHC 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 PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

BHHC Policy

The family must inform BHHC of the birth, adoption or court-awarded custody of a child within 10 business 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 PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)]. When any new family member is added, the PHA 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 PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

BHHC Policy

Families must request BHHC 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 (12) month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by BHHC prior to the individual moving in the unit.
BHHC will not approve the addition of a new family or household member unless the individual meets BHHC's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II)
BHHC will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.
If BHHC determines an individual meets BHHC's eligibility criteria as defined in Chapter 3 and documentation requirements, BHHC will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.
If BHHC determines that an individual does not meet BHHC's eligibility criteria as defined in Chapter 3 or documentation requirements, BHHC 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.
BHHC 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 PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

BHHC Policy

If a household member ceases to reside in the unit, the family must inform BHHC within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.
If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform BHHC within 10 business days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA 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 PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

BHHC Policy

BHHC will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), BHHC will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, BHHC will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

BHHC will conduct and review quarterly EIV and Credit Reporting to determine if the information reported is accurate to prevent program abuse and fraud.

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), BHHC 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, BHHC will conduct an interim reexamination.

BHHC 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 PHA 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 PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

BHHC Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

BHHC will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, BHHC will note the information in the tenant file, but will not conduct an interim reexamination.
BHHC will conduct and review quarterly EIV and Credit Reporting to determine if the information reported is accurate to prevent program abuse and fraud.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA 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.

BHHC 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, BHHC 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, BHHC will conduct an interim reexamination. See Section 11-II.D. for effective dates.
Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

BHHC Policy

The family may notify BHHC of changes either orally or in writing. If the family provides oral notice, BHHC may also require the family to submit the changes in writing. Generally, the family will not be required to attend an interview for an interim reexamination. However, if BHHC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, BHHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from BHHC. This time frame may be extended for good cause with BHHC approval. BHHC will accept required documentation by mail, by fax, or in person.

BHHC will conduct and review quarterly EIV and Credit Reporting to determine if the information reported is accurate to prevent program abuse and fraud.

Effective Dates

The PHA 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].

BHHC Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

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 PHA 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 PHA'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 PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has i*ncreased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, 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.

Subsidy Standards [24 CFR 982.505(c)(4)]
If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]
The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA'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 PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.
At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

BHHC 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 PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA'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).

BHHC Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA 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 PHA 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 PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA 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 PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA 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 PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

BHHC 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 BHHC 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 PHA terminate the family's assistance at any time.

BHHC 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, BHHC will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]

The PHA 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.

BHHC 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, BHHC will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, BHHC may, on a case-by-case basis, choose not to terminate assistance.

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

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA 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 PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security number of each household member and the documentation necessary to verify each Social Security Number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the family an opportunity to comply with the requirements within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

BHHC Policy

BHHC will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency family situations; if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The PHA 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 and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable)

exceeds the applicable income limit.
If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The PHA must immediately terminate program assistance for deceased single member

BHHC Policy

BHHC will immediately termination program assistance to a deceased sole member of a family.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]
HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA 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

BHHC Policy

BHHC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
BHHC will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
Currently engaged in is defined as any use of illegal drugs during the previous six months.
BHHC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.
In making its decision to terminate assistance, BHHC will consider alternatives as

described in Section 12-II.C and other factors described in Section 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, BHHC 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.

BHHC Policy

BHHC will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.
BHHC 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, BHHC 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, BHHC 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 PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

BHHC Policy

BHHC **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs. BHHC **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 BHHC 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 in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

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 BHHC.

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

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

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

In making its decision to terminate assistance, BHHC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and Section 12-II.E. Upon consideration of such alternatives and factors, BHHC 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 PHA 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.

BHHC Policy

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

BHHC Policy

BHHC will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If BHHC determines there is a shortage of funding, prior to terminating any HAP contracts, BHHC will determine if any other actions can be taken to reduce program costs.
In the event that BHHC decides to stop issuing Vouchers as a result of a funding shortfall, and BHHC is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when BHHC resumes issuing vouchers, BHHC will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.
If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, BHHC will terminate HAP contracts as a last resort.
Prior to terminating any HAP contracts, BHHC will inform the local HUD field office. BHHC will terminate the minimum number needed in order to reduce HAP costs to a level within BHHC's annual budget authority.

If BHHC must terminate HAP contracts due to insufficient funding, BHHC will do so in accordance with the ***24 CFR 982.454*** criteria and instructions.

Families comprising the required number of special purpose vouchers, including nonelderly disabled NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) will be the last to be terminated.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The PHA 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 PHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA 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 PHA terminates assistance depends upon individual circumstances. HUD permits the PHA 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 PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

BHHC 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 BHHC request.

Repayment of Family Debts

BHHC Policy

If a family owes amounts to BHHC, as a condition of continued assistance, BHHC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from BHHC of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the PHA 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)].

BHHC Policy

BHHC 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 PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

BHHC Policy

BHHC 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
BHHC 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 PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BHHC Policy

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

12-II.E. PROHIBITION AGAINST TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 109-162, Pub.L. 109-271]
FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010

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 PHAs 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 PHA to terminate the assistance of any participant if the PHA "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

BHHC Policy

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, BHHC 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 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 required certification and supporting documentation must be submitted to BHHC within 14 business days after BHHC issues their written request. The 14-day deadline may be extended at BHHC's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, BHHC may proceed with assistance termination.

If BHHC 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, BHHC 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 PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271]. / **FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010**

BHHC Policy

When the actions of a participant or other family member result in a BHHC 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, BHHC 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, BHHC will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, BHHC will proceed with termination of the family's assistance.
If BHHC 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, BHHC will bypass the standard process and proceed with the immediate termination of the family's assistance.

PHA Confidentiality Requirements

All information provided to BHHC 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 PHA 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 must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

BHHC Policy

When termination is initiated by BHHC, 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 BHHC, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time BHHC learns the family has vacated the unit.
When a family requests to be terminated from the program they must do so in writing to BHHC (see section 12-I.C.). BHHC 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 PHA 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 PHA 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 PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

BHHC 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 PHA 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. This includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

Any violent criminal activity on or near the premises; 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-II.E.).

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy: (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

Note that "other good cause" dose not include vacating a property that has been foreclosed upon during the lease term prior to the sale of that property; however, the new owner of the property may terminate the tenancy effective on the date of transfer of the unit if the owner will occupy the unit as a primary residence and has provided the tenant a notice to vacate at least 90 days before the effective date of such notice [PIH Notice 2010-49]. Further information on the protections afforded to tenants in the event of foreclosure can be found in section 13-11.G.

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 PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

BHHC Policy

If the eviction action is finalized in court, the owner must provide BHHC 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-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA 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 PHA 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 PHA 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.

  BHHC Policy

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow BHHC 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.

  BHHC Policy

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

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.
- The family must notify BHHC and the owner before moving out of the unit or terminating the lease.

  BHHC Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to BHHC at the same time the owner is notified.
- The family must promptly give BHHC 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 BHHC. The family must promptly notify BHHC in writing of the birth, adoption, or court-awarded custody of a child. The family must request BHHC approval to add any other family member as an occupant of the unit.

  BHHC Policy

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

- The family must promptly notify BHHC in writing if any family member no longer lives in the unit.
- If BHHC has given approval, a foster child or a live-in aide may reside in the unit. BHHC has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when BHHC 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.

  BHHC 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 BHHC to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify BHHC when the family is absent from the unit.

  BHHC 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 BHHC 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 BHHC 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 BHHC 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 BHHC 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 PHA'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 PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA 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

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

BHHC Policy

BHHC will conduct owner outreach to ensure that owners are familiar with the program and its advantages. BHHC 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 PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

BHHC Policy

BHHC 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.

BHHC will provide owners with a handbook that explains the program, including HUD and BHHC policies and procedures, in easy-to-understand language.

BHHC will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated BHHC contact person.
- Coordinating inspection and leasing activities between BHHC, 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 PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA 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)].

BHHC 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 BHHC. BHHC 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. BHHC has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, 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 BHHC, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. BHHC 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.

BHHC 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, BHHC 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.

BHHC 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 in Part II of 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 PHA 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 PHA), 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 PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA 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 PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA 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 PHA must not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA 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 PHA 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 PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- 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 PHA must submit a waiver request to the appropriate HUD Field Office for determination.
Any waiver request submitted by the PHA 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 PHA, 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 PHA or assistance under the HCV program for an eligible PHA 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 PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

BHHC Policy

In considering whether to request a conflict of interest waiver from HUD, BHHC 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 PHA, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.
If the PHA 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].

BHHC Policy

BHHC will refuse to approve a request for tenancy if BHHC becomes aware that any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

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

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

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

The owner has a history or practice of renting units that fail to meet state or local housing codes; or

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, BHHC will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, BHHC may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit
The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

BHHC Policy

BHHC 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 PHA.
The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

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 PHA 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 PHA's obligations. Under the HAP contract, the PHA 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 PHA's HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA 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, signatures of PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

BHHC Policy

BHHC has not adopted a policy that defines when the housing assistance payment by the BHHC is deemed received by the owner.

Policy Modification
Modifications to the HAP contract - In accordance with the provisions in PIH Notice 2009-52 provisions include notification requirements for subsequent owner(s), new owner's responsibility to comply with existing HAP contract requirements under certain conditions. Additional PHA responsibilities to safeguard the tenant.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The 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 PHA 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 PHA 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 PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the PHA 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 PHA is not responsible for payment of the family share of rent. The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, 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 PHA 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 PHA 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 PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The PHA 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 PHA 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.

BHHC Policy

The owner must inform BHHC when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
The owner must inform BHHC when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide BHHC 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, BHHC 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 BHHC of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation ns 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 PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA 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 PHA may also obtain additional relief by judicial order or action.

The PHA 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 PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

BHHC Policy

Before BHHC invokes a remedy against an owner, BHHC will evaluate all information and documents available to determine if the contract has been breached.
If relevant, BHHC 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, BHHC 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 PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

BHHC Policy

BHHC 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 PHA terminates the HAP contract, the PHA 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].

BHHC Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which BHHC gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to BHHC 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 PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.
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 PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

BHHC 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.
BHHC must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.
Within 10 business days of receiving the owner's request, BHHC will inform the current owner in writing whether the assignment may take place.
The new owner must provide a written certification to BHHC that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, BHHC 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, BHHC will process the leasing in accordance with the policies in chapter 9.

In accordance with the provisions in PIH Notice 2009-52 provisions include notification requirements for subsequent owner(s), new owner's responsibility to comply with existing HAP contract requirements under certain conditions. The PHA responsibilities to safeguard the tenant.

13-II.G. FORECLOSURE [HUD-52641 and Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). Specifically, the HAP contract now contains language stating that in the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure will assume such interest subject to the lease between the prior owner and the tenant, and to the HAP contract between the prior owner and the PHA for the occupied unit. This provision of the HAP contract does not affect any state or local law that provides longer time periods or other additional protections for tenants.

If the PHA learns that a property is in foreclosure, it must take the following actions:

- Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. (Further guidance on how to obtain this information can be found in Notice PIH 2010-49.)
- Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.
- Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement should include a request for owner information, such as a tax identification number, and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.
- Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.
- Inform the tenant in the event that the PHA is unable to make HAP payments to the successor in interest due an action or inaction by the successor that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the successor. The PHA should also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.
- Make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be or has been assisted under the Neighborhood Stabilization Program (NSP). (For further guidance on cases in where the units have been assisted under the NSP, see Notice PIH 2010-49.)
- PHAs are also required to notify HCV applicants who have been issued a voucher, participant heads of household, and current and prospective owners of HCV-assisted housing of the protections afforded to tenants under the PTFA.
- PHA Policy
- The PHA will provide all HCV applicants that have been issued a voucher with information regarding the PTFA at admission (see Section 5-I.B) and to participant heads of household at annual reexamination.
- The PHA will provide information regarding the PTFA to prospective owners when they begin their participation in the HCV program, and to current HCV owners one time with the monthly HAP.
- Note that the foreclosure provision of the HAP contract and additional tenant protections under the Protecting Tenants at Foreclosure Act will sunset December 31, 2014.
- See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA 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 PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- **Provide applicants and residents with form HUD-52675, *"Debt Owed to PHAs and Terminations"***

- **Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file**

  BHHC Policy

  BHHC anticipates that the vast majority of families and BHHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

  To ensure that BHHC's program is administered effectively and according to the highest ethical and legal standards, BHHC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

  - BHHC will provide each applicant and resident with a copy of ***"Is Fraud Worth It"*** (form HUD-1141-OIG) which explains the types of actions a family must avoid and the penalties for program abuse.
  - BHHC will provide each applicant and resident with a copy of ***"What You Should Know about EIV"*** a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition BHHC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
  - BHHC will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. BHHC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
  - BHHC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
  - BHHC staff will be required to review and explain the contents of all HUD- and BHHC-required forms prior to requesting family member signatures.

- BHHC 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 BHHC forms and form letters that request information from a family member.
- BHHC will provide each BHHC 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 PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

BHHC Policy

In addition to the SEMAP quality control requirements, BHHC will employ a variety of methods to detect errors and program abuse.

BHHC 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.

BHHC will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

BHHC Policy

BHHC 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 BHHC's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

BHHC Policy

BHHC will encourage staff, residents, and the public to report possible program abuse. BHHC will post and provide the following information

Report Abuse HUD Hotline

By Phone: Call toll free: 1-800-347-3735 - TDD: (202) 708-2451
By Fax: (202) 708-4829
By email: hotline@hudoig.gov
By Mail: HUD Office of Inspector General Hotline, OIG
-451 7th Street, SW
-Washington, DC 20410

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

BHHC Policy

BHHC 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 BHHC 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.

BHHC 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]

BHHC may investigate possible instances of error or abuse using all available BHHC and public records. If necessary, BHHC will require HCV families to give consent to the release of additional information.

Analysis and Findings

BHHC Policy

BHHC 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 BHHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to BHHC, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

BHHC Policy

In the case of family-caused errors or program abuse, BHHC 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, BHHC 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

BHHC Policy

BHHC 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 BHHC 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 PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

BHHC 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 BHHC or BHHC 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 PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

BHHC Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. BHHC 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, BHHC will terminate the family's assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family [HCV GB p. 22-12]

BHHC Policy

BHHC will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

BHHC Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by BHHC for rent, security deposit, and additional services

Offering bribes or illegal gratuities to BHHC Board of Commissioners, employees, contractors, or other BHHC 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 BHHC on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

BHHC 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 BHHC may, at its discretion, impose any of the following remedies.

- BHHC may require the family to repay excess subsidy amounts paid by BHHC, as described earlier in this section.
- BHHC 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).
- BHHC may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- BHHC 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 (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

BHHC Policy

In cases where the owner has received excess subsidy, BHHC 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 PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

BHHC Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by BHHC

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 BHHC Board of Commissioners, employees, contractors, or other BHHC representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to BHHC

Residing in the unit with an assisted family

Remedies and Penalties

When BHHC determines that the owner has committed program abuse, BHHC 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 PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

PHA Reimbursement to Family or Owner

The PHA 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 PHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

BHHC Policy

Any of the following will be considered evidence of program abuse by BHHC 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 BHHC

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of BHHC 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

BHHC Policy

When BHHC determines that program abuse by an owner, family, or BHHC staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, BHHC 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 PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA 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 PHA 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 PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

Chapter 15

SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA 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.

BHHC 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 0-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

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 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 PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

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 PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

> Congregate housing must have (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 PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

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 0- or 1-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

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, and
  - 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 PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements 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 0-bedroom or 1-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 PHA 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. PHAs may, but are 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 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA 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 PHA 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 PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA 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 PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. PHAs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a PHA offers both forms of assistance, a family must choose which form of assistance to receive.

The PHA 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 PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

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 PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA 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 PHA 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 PHA 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 PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;
  - The PHA 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 PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA 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 PHA, the PHA 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 PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA 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 PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The PHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the PHA 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 PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA 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 PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The PHA 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 PHA must establish policies describing these requirements in the administrative plan.

A PHA 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 PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA 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 PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA 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 PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA 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 PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA 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 PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA 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 PHA 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 PHA 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 PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA 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 PHA 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-VII.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 PHA 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 initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-VII.M. 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 PHA 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 PHA 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 PHA's policy regarding number of moves within a 12-month period.

The PHA 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.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA 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 PHA 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 PHA 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 PHA'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 PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA 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 PHA.

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 PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA'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 PHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses, the PHA may use these funds for other housing purposes permitted by Federal, State and local law. If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA 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 PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

BHHC Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of BHHC'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 PHA to adapt the program to local conditions. This part discusses how the PHA 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).

BHHC Policy

Copies of the payment standard and utility allowance schedules are available for review in BHHC'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.
BHHC 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 PHA 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 PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA 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 PHA 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 PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

BHHC Policy

BHHC will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" BHHC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: BHHC 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. BHHC 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, BHHC will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: BHHC 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 mid-range of the market.

Changes in Rent to Owner: BHHC 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: BHHC 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: BHHC will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on December 1st of every year unless, based on the proposed FMRs, it appears that one or more of BHHC's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, BHHC 's payment standards will be effective October 1st instead of December 1st.

If BHHC has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, BHHC will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by BHHC at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The PHA 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 PHA 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 PHA'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 PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA 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 PHA 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.

BHHC 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, BHHC 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 PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA 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 PHA 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 PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA 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 PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The PHA 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 PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA 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 PHA 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 PHA 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.

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 PHA 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.

BHHC Policy

BHHC has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before BHHC will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The PHA 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 PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.
PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

BHHC Policy

BHHC will offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on BHHC waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

BHHC Policy

A request for an informal review must be made in writing and delivered to BHHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHHC's denial of assistance.
Except as provided in Section 3-III.G, BHHC must schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

BHHC Policy

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.
The applicant must be provided an opportunity to present written or oral objections to the decision of BHHC.
The person conducting the review will make a recommendation to BHHC, but BHHC is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

BHHC Policy

In rendering a decision, BHHC will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. BHHC will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, BHHC will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, BHHC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

BHHC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards, or the PHA determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

BHHC Policy

BHHC will offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.
For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

BHHC Policy

In cases where BHHC makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:
The proposed action or decision of BHHC.
A brief statement of the reasons for the decision including the regulatory reference.
The date the proposed action will take place.
A statement of the family's right to an explanation of the basis for BHHC's decision.
A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
A deadline for the family to request the informal hearing.
To whom the hearing request should be addressed.
A copy of BHHC's hearing procedures.

Scheduling an Informal Hearing **[24 CFR 982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

BHHC Policy

A request for an informal hearing must be made in writing and delivered to BHHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of BHHC's decision or notice to terminate assistance.
BHHC must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.
The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, BHHC may request documentation of the "good cause" prior to rescheduling the hearing.
If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact BHHC within 24 hours of the scheduled hearing date, excluding weekends and holidays. BHHC will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery **[24 CFR 982.555(e)]**

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

BHHC Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BHHC documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date
BHHC must be given an opportunity to examine at BHHC offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, BHHC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel **[24 CFR 982.555(e)(3)]**
At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer **[24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

BHHC Policy

BHHC has designated the following to serve as hearing officers:
BHHC Quality Control Coordinator will serve as the agency Hearing Officer. BHHC has selected the Hearing Officer in the manner required under the grievance procedure, Efforts will be made to assure that the officer selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

Attendance at the Informal Hearing

BHHC Policy

Hearings may be attended by a hearing officer and the following applicable persons:
BHHC representative(s) and any witnesses for BHHC
The participant and any witnesses for the participant
The participant's counsel or other representative
Any other person approved by BHHC as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

BHHC Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence **[24 CFR 982.555(e)(5)]**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

BHHC Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to BHHC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either BHHC or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision **[24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

BHHC Policy

In rendering a decision, the hearing officer will consider the following matters:

BHHC Notice to the Family: The hearing officer will determine if the reasons for BHHC's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if BHHC and the family were

given the opportunity to examine any relevant documents in accordance with BHHC policy.

BHHC Evidence to Support BHHC Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support BHHC's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and BHHC policies. If the grounds for termination are not specified in the regulations or in compliance with BHHC policies, then the decision of BHHC will be overturned.

The hearing officer will issue a written decision to the family and BHHC no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the participant;
Date, time and place of the hearing;
Name of the hearing officer;
Name of BHHC representative; and
Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Procedures for Rehearing or Further Hearing

BHHC Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of BHHC will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer's report is mailed to BHHC and the participant, BHHC or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of BHHC to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

PHA Notice of Final Decision **[24 CFR 982.555(f)]**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.
If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

BHHC Policy

BHHC will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in BHHC's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

BHHC Policy

BHHC will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.
The family must provide BHHC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to BHHC, of its decision. When the USCIS notifies BHHC of the decision, BHHC must notify the family of its right to request an informal hearing.

BHHC Policy

BHHC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.
The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

BHHC Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of BHHC's documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by BHHC, and to confront and cross-examine all witnesses on whose testimony or information BHHC relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

BHHC Policy

BHHC will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

BHHC Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, BHHC holds the owner or participant liable to return any overpayments to BHHC.

BHHC 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 BHHC, BHHC will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies
Small claims court
Civil law suit
State income tax set-off program
In accordance with PIH Notice 2010-09 and 2010-19 debt owed to a PHA when reported in the EIV System may be available to other agencies. Debt reported in EIV may cause denial of Federal Housing assistance.

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

BHHC Policy

Any amount due to BHHC by an owner must be repaid by the owner within 30 days of BHHC determination of the debt.
If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, BHHC 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 BHHC will 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, BHHC will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

BHHC Policy

Any amount due to BHHC by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, BHHC will 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, BHHC will terminate the assistance upon notification to the family and pursue other modes of collection.
In accordance with PIH Notice 2010-09 and 2010-19 debt owed to a PHA when reported in the EIV System may be available to other agencies. Debt reported in EIV may cause denial of Federal Housing assistance.

Repayment Agreement [24 CFR 792.103]

The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to the PHA 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
Repayment Agreements Involving Improper Payments
Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- **A reference to the items in the Family Responsibilities HCVP state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act**

- **A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner**
- **A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases**
- **A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy**

BHHC Policy

BHHC repayment agreement will clearly indicate the provisions as indicated in PIH Notice 2010-19.

Down Payment Requirement

BHHC Policy

Prior to the execution of a repayment agreement with a family, BHHC will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to BHHC that a down payment of 10 percent would impose a undue hardship, BHHC may at the Executive Directors sole discretion require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month-the family's monthly share of rent plus the monthly debt repayment amount-should not exceed 40 percent of the family's month adjusted income, which is considered "affordable." Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreement with families.
[24 CFR 982.552(c)(1)(vii)].

BHHC Policy

If the family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts: The difference between 40 percent of the family's MAI and the total family share at the time the agreement is executed

If the family can provide evidence satisfactory to BHHC that a monthly payment amount of $25.00 would impose a undue hardship, BHHC may at the Executive Directors sole discretion require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement either BHHC or the family may request that the monthly payment amount be adjusted accordingly.

All BHHC repayment agreements will have the following timeline:

- Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

Execution of the Agreement

BHHC Policy

Any repayment agreement between BHHC and the family must be signed and dated by BHHC representative and by the head of household and spouse/cohead (if applicable).

Due Dates

BHHC 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

BHHC 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 BHHC, BHHC 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 BHHC will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and BHHC will terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

BHHC Policy

BHHC 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, PHAs that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

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.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the PHA maintains an up-to-date utility allowance schedule. • Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections
Maximum Score: 5

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control 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 PHA 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 PHA 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 PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA 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 PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

BHHC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BHHC staff.
BHHC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.
Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

BHHC Policy

Prior to utilizing HUD's EIV system, BHHC will adopt and implement the below listed EIV security procedures required by HUD.
PHA will safeguard the integrity of tenants EIV information by the following process:

1. ***All employees issued keys to access area or file cabinets which contain tenant files and EIV reports will complete a form acknowledging receipt of keys. A log will be kept showing name and date that the key was issued and the date that the key is returned.***
2. ***Work area of staff authorized to research and download EIV reports and other privacy-sensitive information will be shielded from the public.***
3. ***Unauthorized BHHC staff will not have access to work station or computer of any authorized staff.***
4. ***BHHC staff will not leave resident files on counters and desk tops or leave computer screens open with sensitive data unattended. Files will be locked in desk***

or file cabinets and computer screens cleared before staff leaves his/her desk for any reason.

5. ***BHHC staff will remove EIV printouts from printer immediately.***
6. ***BHHC will keep a log of all documents shredded, including name of employee disposing of document, description of document, method of disposal and date of disposal.***
7. ***BHHC staff will ensure that resident files are locked in file cabinets or locked file room at the close of each business day.***
8. ***Any combination locks used for security purposes will be reset yearly or as needed due to staff turnover.***
9. ***Security procedures will be reviewed with staff on a yearly basis to safeguard against laxity and breaches.***

Criminal Records

BHHC may only disclose the criminal conviction records which BHHC receives from a law enforcement agency to officers or employees of BHHC, or to authorized representatives of BHHC who have a job-related need to have access to the information [24 CFR 5.903(e)].
BHHC has establish and implemented a system of records management that ensures that any criminal record received by BHHC 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 BHHC's action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].
BHHC has establish and implemented a system of records management that ensures that any sex offender registration information received by BHHC 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 BHHC's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by BHHC staff other than under 24 CFR 5.905.

Medical/Disability Records

BHHC is not permitted to inquire about the nature or extent of a person's disability. BHHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If BHHC receives a verification document that provides such information, BHHC will not place this information in the tenant file. BHHC will destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA 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, and data collection and record keeping responsibilities that the PHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The PHA 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.

BHHC Policy

BHHC 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 PHA 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 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA 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 PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA 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.

BHHC Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, BHHC is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

BHHC Policy

BHHC 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 BHHC's annual budget authority and HAP Reserves 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, BHHC will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and the HAP Reserves, or if BHHC cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, BHHC will be considered to have insufficient funding.

PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

16-IX.A. NOTIFICATION TO PARTICIPANTS [Pub.L. 109-162]

VAWA requires PHAs to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

BHHC Policy

BHHC will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.
The notice will explain the protections afforded under the law, inform the participant of BHHC's confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.
BHHC will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

16-IX.B. NOTIFICATION TO APPLICANTS

BHHC Policy

BHHC will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.
The notice will explain the protections afforded under the law, inform each applicant of BHHC's confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.
BHHC will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

BHHC Policy

Inform property owners and managers of their screening and termination responsibilities related to VAWA. BHHC 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 BHHC's lobby and/or mass mailings which include model VAWA certification forms.

PART X: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-X.A. OVERVIEW

The Violence against Women Act of 2005 (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

16-X.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse 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 *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.
- 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.

16-X.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

BHHC Policy

BHHC will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking (see sample notices in Exhibits 16-1 and 16-2)

The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibits 16-1 and 16-2)

An explanation of the documentation that the PHA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking

A statement of the PHA's obligation to keep confidential any information that it receives from a victim unless (a) the PHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as participants, PHAs may elect to provide the same information to applicants.

BHHC Policy

BHHC will provide all applicants with information about VAWA at the time they request an application for housing assistance. BHHC will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

BHHC will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. BHHC will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

BHHC Policy

BHHC will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

16-X.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator

(2) A federal, state, tribal, territorial, or local police report or court record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

BHHC Policy

Any request for documentation of domestic violence, dating violence, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline. BHHC may, in its discretion, extend the deadline for 10 business days. Any extension granted by BHHC will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

BHHC Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, BHHC will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

BHHC Policy

If BHHC accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, BHHC will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-X.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA 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. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

BHHC Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, BHHC will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

EXHIBIT 16-1: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER APPLICANTS AND TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for a Section 8 voucher, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, you cannot be terminated from the Section 8 program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

Reasons You Can Be Evicted

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser's Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.

Moving to Protect Your Safety

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing choice voucher program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

Proving That You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority and your landlord can ask you to prove or "certify" that you are a victim of domestic violence, dating violence, or stalking. The housing authority or your landlord must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline. There are three ways you can prove that you are a victim:

Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser's relationship to you, the date, time, and location of the incident of violence, and a description of the violence.

Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing "under penalty of perjury."

Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

Confidentiality

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

You give written permission to the housing authority or your landlord to release the information.

Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.

A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.

VAWA and Other Laws

VAWA does not limit the housing authority's or your landlord's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact _____ at _____.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

A current or former spouse of the victim

A person with whom the victim shares a child in common

A person who is cohabitating with or has cohabitated with the victim as a spouse

A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies

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

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking. You cannot hold a victim of domestic violence, dating violence, or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

A completed, signed HUD-approved certification form. The most recent form is HUD-50066. This form is available at the housing authority or online at http://www.hud.gov/offices/adm/hudclips/.

A statement from a victim service provider, attorney, or medical professional who has helped the victim address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

A police or court record, such as a protective order.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

The tenant provides written permission releasing the information.

The information is required for use in an eviction proceeding, such as to evict the abuser.

Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

Additional Information

If you have any questions regarding VAWA, please contact _____.

HUD Notice PIH 2006-42 contains detailed information regarding VAWA's certification requirements. The notice is available at http://www.hud.gov/offices/adm/hudclips/.

For a discussion of VAWA's housing provisions, see the preamble to the final VAWA rule, which is available at http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

A current or former spouse of the victim

A person with whom the victim shares a child in common

A person who is cohabitating with or has cohabitated with the victim as a spouse

A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies

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

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and PHA 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 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 PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part 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.

Part X: Community Supportive Service (CSS) Program. This part describes the types of community supportive services offered to the PVB development.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows PHAs 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]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

BHHC Policy

BHHC will operate a project-based voucher program using up to 20 percent of its budget authority 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 PHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [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 PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

BHHC Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, BHHC policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants. Such policies include but not limited to Eligibility as stated in Chapter 3; Income and Subsidy Determinations as stated in Chapter 6 and Annual Reexaminations as stated in Chapter 11 of this administrative plan.

17-I.C. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II:

17-II.A. Project Based Voucher HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

17-II.B. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing 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 PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

The PHA 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 PHA determination. The PHA 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.

BHHC Policy

BHHC will not use high-rise elevator projects for families with children.

Subsidized Housing [24 CFR 983.54]
A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

17-II.C SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.
The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. The PHA 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.D. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

In general, the PHA 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 more than 25 percent 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 or disabled families or families receiving supportive services (also known as *qualifying families*).

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, CSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the CSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.

BHHC Policy

BHHC may provide PBV assistance for excepted units.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A PHA 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 PHA 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 PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-building cap of less than 25 percent.

BHHC Policy:

BHHC may provide assistance for excepted units. Beyond that, BHHC may impose a further cap on the number of PBV units assisted per building.

17-II.E. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of 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).

BHHC Policy

It is the goal of BHHC to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal BHHC will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, BHHC will grant exceptions to the 20 percent standard where BHHC determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, 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.

Under no circumstances will BHHC approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate or forty percent, whichever is lower.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.F ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA 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 PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental

review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed. The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting 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 PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.
Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until 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 PHA must inspect the unit. The PHA 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 PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-owned Units [24 CFR 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

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 PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 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 PHA, 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 PHA notice of proposal selection to the selected owner. However, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval.

BHHC Policy

BHHC will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]
If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.
The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]
The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]
The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.
The owner must also disclose any possible conflict of interest that would be a violation of the 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 PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

BHHC Policy

BHHC 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. BHHC will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. 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; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

BHHC Policy

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of BHHC's 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 [FRN Notice 11/24/08]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than ten years.

BHHC 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 PHA may extend the term of the contract for an additional term of up to five years if the PHA 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.

BHHC Policy

When determining whether or not to extend an expiring PBV contract, BHHC will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

Termination by PHA [24 CFR 983.205(c)]

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner 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 PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

BHHC Policy

BHHC will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Chapter 8- Section II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]
At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]
At the PHA'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 PHA's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

BHHC Policy

BHHC will consider adding contract units to the HAP contract when the PHA determines that additional housing is needed to serve eligible low-income families. Subject to HUD approval, BHHC may add contract units.
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.

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 PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- 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 PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

BHHC Policy

BHHC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA 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 PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-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 PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

BHHC Policy

BHHC will not provide vacancy payments to the owner.

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 PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

BHHC Policy

BHHC will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3. HCV applicants and current program participants may also apply to the PBV program. However, in addition to meeting HCV eligibility requirements, PBV applicants must require one or more of the supportive services as defined in Part X of the administrative plan.

The CSS program will offer opportunities to help develop each program participants capabilities to become self-sufficient members of our community.

BHHC has established the following criteria/categories for supportive services. An applicant must demonstrate a need for one or more of these required services to be eligible for PBV units. Demonstrate a need for but not limited to:

- Employment support- additional training/transportation/childcare
- Continuing education – GED Tutoring/GED Classes/ Computer Classes/ Specific Trade Classes for Employment Advancement (i..e..Culinary Arts, Nursing, etc...)
- Individual and/or family Counseling, testing for employment advancement, abuse prevention programming, child development and parenting classes.

All participants of the PVB Program must enter into an Individual Development Plan (IDP) that is based on the needs assessment and agree to participate in the supportive services provided by BHHC's Partners. Residents will be required to participate in an annual progress review meeting with the assigned Case Worker; participants may be required to meet more frequently if needed.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

BHHC Policy

BHHC will establish a separate waiting list for the PBV.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above. Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has 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 PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].

BHHC Policy

BHHC 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).

BHHC will use the following local preference:

In order to bring higher income families into public housing, BHHC will establish a preference for 'working' families, where the head, spouse, cohead, or sole member is employed at least 30 hours per week. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)]. Families that use this preference must maintain their employment for 12 consecutive months or until their annual effective date for re-certification.

Date and time the families' application was received by the BHHC office.

The family must demonstrate the need for one or more of the supportive services as stated in Section X of this administrative plan to be eligible for PBV units.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

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

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

BHHC Policy

If any contract units have been vacant for 120 days, BHHC 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. BHHC will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of BHHC's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

BHHC Policy

BHHC will require the management company conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

BHHC Policy

BHHC will inform the management company of their responsibility to screen prospective tenants, and will provide the management company with the required known name and address information, at the time of the turnover HQS inspection or before. BHHC will provide any additional information to the management company, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

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 PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

BHHC Policy

BHHC will require the management company to use the established HUD approved lease and lease addendums.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]
The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) 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 PHA 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 PHA a copy of all changes.
The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]
With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

BHHC Policy

If a determination is made that the PBV participant is no longer eligible for the PBV unit and/or the tenant no longer requires supportive services and/or the tenant is no longer a participant in the supportive services as defined in Part X of the administrative plan the resident tenancy will be terminated. This determination will be made as part of the annual progress review as described in Part X of this plan. Prior initiating termination, BHHC will provide the family an opportunity to exercise their right to move in accordance with 24 CFR 983.260. If the family chooses not to exercise this right, housing assistance will be terminated.

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 PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits [24 CFR 983.258]
The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

BHHC Policy

BHHC will require the management company to collect a security deposit in the amount equivalent to one month rent excluding the utility allowance.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.
The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.
If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]
If the PHA determines that a family is occupying a wrong size unit, based on the PHA'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 PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

BHHC Policy

BHHC will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of BHHC's determination. BHHC will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the PHA).
If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA.

BHHC Policy

When BHHC offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, BHHC will terminate the housing assistance payments at the expiration of this 30-day period.
BHHC may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]
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 PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.
If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.
If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c), FR Notice 11/24/08]
If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261, FR Notice 11/24/08]

The PHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by the PHA. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

BHHC Policy

BHHC will not provide PBV assistance for excepted units.

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 PHA, 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; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. 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; and
- The tax credit rent exceeds a PHA-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 PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.
Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

BHHC Policy

Upon written request by the owner, BHHC 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. BHHC 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, BHHC 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 BHHC determines it is necessary due to BHHC's budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

BHHC Policy

An owner's request for a rent increase must be submitted to BHHC 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

BHHC Policy

BHHC will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-owned Units [24 CFR 983.301(g)]

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

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 PHA.

When Rent Reasonable Determinations are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct 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.

PHA-owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent
By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

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 PHA 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 non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- 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 PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

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 PHA determines that the vacancy is the owner's fault.

BHHC Policy

If BHHC determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, BHHC will notify the landlord of the amount of housing assistance payment that the owner must repay. BHHC will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

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 PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.
The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.
The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

BHHC Policy

BHHC will make utility reimbursements to the family. The family will decide annually what utility company their utility reimbursement payment will be forwarded to monthly.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services
With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner
The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

PART X: COMMUNITY SUPPORTIVE SERVICES

OVERALL OBJECTIVE AND PROGRAM APPROACH

Community Supportive Services (CSS) is designed to promote the development of its residents by combining local community supportive programs to target the population with community in which it serves.
The Benton Harbor Housing Commission has tailored its CSS Program to provide a comprehensive approach to assessment and/or employment services.
CSS program benchmarks will allow very low-income and transitional housing families the opportunity to develop their capabilities to become self-sufficient members of our community.
Through a special allocation of the Hope VI CSS Endowment Budget provided by the U.S. Department of Housing and Urban Development, the Housing Commission will coordinate and implement the CSS Program.
In implementing the CSS Program, the Housing Commission will work with area community service partners to establish training programs, pro-active heath care initiatives, adult educational opportunities, child care, entrepreneur opportunities, children/student service programs and a resource bank for food, rental assistance and utility service assistance.
BHHC has established an Action Plan identifying goals and objectives to promote programs that expand the opportunity for participants to become self-sufficient members of our community.
A integral component of the CSS Program is to identify the needs of program participants. Through needs assessment, determination for needed services such as childcare services, adult education, additional resource assistance, counseling, on-the-job training, and job placement will be ascertained. Support services that have been identified in the individual participant's through the needs assessment will be referred to the prospective community partner with a request for assistance.
Utilizing the partnership's extensive knowledge and established benchmarks, the Housing Commission is confident that it is providing a great opportunity and service to promote self-sufficient opportunities.

BHHC Policy

The CSS program will offer opportunities to help develop each program participant's capabilities to become self-sufficient members of our community.
BHHC has established the following criteria/categories for supportive services. An applicant must demonstrate a need for one or more of these required services to be eligible for PBV units. Demonstrate a need for but not limited to:

- Employment support- additional training/transportation/childcare
- Continuing education – GED Tutoring/GED Classes/ Computer Classes/ Specific Trade Classes for Employment Advancement (i..e..Culinary Arts, Nursing, etc...)
- Individual and/or family Counseling, testing for employment advancement, abuse prevention programming, child development and parenting classes.

All participants of the PVB Program must enter into an Individual Development Plan (IDP) that is based on the needs assessment and agree to participate in the supportive services provided by BHHC's Partners. Residents will be required to participate in an annual progress review meeting with the assigned Case Worker; participants may be required to meet more frequently if needed.

HOPE VI SERVICE PARTNERS

Name	Service (Past, Current and Sustainability)	Length of Time	MOU
Benton Harbor Street Ministries Contact: Rev. Yvonne Hester President	GED Tutoring, GED Classes	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
Berrien County Health Department Contact: John Nelson, Health Officer/Director of Programs	Nurse-Family Partnership Program Health Promotion Education Services Vaccinations, Reproductive Health Clinic Services, Substance Abuse Counseling	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
Bridges to Digital Excellence Contact: Doug Chapman	Computer Training Free Computers to 20 eligible families 8 hours of Course Training per family	04/01/09-09/25/09 09/28/09-09/30/14	
CARES Contact: Willie Mitchell, Prevention Specialist	Education, Counseling, Testing for employees and clients	04/01/09-09/25/09 09/28/09-09/30/14	
Citizens for Progressive Change Contact: Dr. Marcus Robinson, President	After school programs – elementary grades (2-5) and middle grades (6-8) up to 75 slots Character Education through Band of Brethren In Christ up to 100 slots	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
Cornerstone Alliance Small Business Services Contact: Margaret Adams	One-on-one Business Counseling, CORE FOUR Business Planning E-Business for Small Business, QuickBooks (basic and advanced	04/01/09-09/25/09 09/28/09-09/30/14	
Curious Kids Museum Contact: Pat Adams	Regular Cultural, Science, Arts Program, Transportation, Admission Cool Kids Summer Program	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/20/09 TBS 04/29/09
Berrien County Family Independence Agency Contact: Jerry S. Frank, Director	Child Care, Vehicle Repairs, Vehicle Purchase, Special Clothing, Transportation	04/01/09-09/25/09 09/28/09-09/30/14	TBS 04/29/09 TBS 04/29/09
"I'm Saving Myself" Contact: Bonita Mitchell, President	Prevention Program using Music and the performing arts, Low Self-esteem Drug and Alcohol, Suicide, Violence	04/01/09-09/25/09 09/28/09-09/30/14	
KMG Keystone Property Management Connie Mathes, Regional Property Manager	Training/Possible Employment	04/01/09-09/25/09 09/28/09-09/30/14	
Second Baptist Church Contact: Rev. Kenneth M. Gavin, Pastor	Food Bank , Utility Service Assistance, Rental Assistance, Drama Classes Educational Assistance	04/01/09-09/25/09 09/28/09-09/30/14	
YMCA Contact: Jerry Price, Community Development Director	Donation of Profession Exercise Equipment , After School Tutoring Computer Literacy Training, "Girls on the Run", Health and Fitness programs Supervised Sports Activities Monitor sports equipment donated by HOPE VI thru a checkout process	04/01/09-09/25/09 09/28/09-09/30/14	

Revised by Sheila Hill 2012 / Benton Harbor Housing Commission
Prepared By:
Sheila Hill Benton Harbor Housing Commission
Nan McKay and Associates Inc.

Benton Harbor Housing Commission

Project Based Voucher Administrative Plan
Administration Procedures

This will be a cooperative process between the Benton Harbor Housing Commission (BHHC); Benton Harbor Hope VI Phase IV, LDHALP, and KMG Prestige/Management Company acting as management agent for Harbor Bluffs. It is understood that the BHHC must adhere to their Administrative Plan for this process and that KMG Prestige/Management Company will adhere to the same policies in the ACOP for the remaining units of Harbor Bluffs. It is further understood that when regulations conflict, the more restrictive document will prevail. Additionally, BHHC and the Management Company understand that all applicants must meet Section 1602 regulations or the applicant will be rejected. Any changes to this plan must be approved by the Management Company and BHHC, and will be considered null and void if not submitted in writing.

Waiting List:

- The Benton Harbor Housing Commission (BHHC) will maintain a separate waiting list for Harbor Bluffs project based voucher units.
- Management of Harbor Bluffs will notify BHHC PBV Coordinator when project based voucher units become available.
- BHHC will then provide the management with five (5) applicants that qualify for the project based voucher program for every potential vacant unit. Referrals from the BHHC will occur within two (2) days of Management notifying BHHC to minimize vacancy.
- Simultaneously upon receipt of potential applicant's information the management company will initiate a full background check for each applicant; the Project Based Voucher Coordinator (PBV) will income qualify the potential applicant.
- If performed background check yields adverse reporting information the management company will notify the PBV Coordinator and send the necessary denial documentation to the PBV Coordinator. The PBV Coordinator will use established procedures to document the file of adverse reporting and secure all documents pertaining to the potential application.

Eligibility requirements for Harbor Bluffs:

- After a qualified applicant is provided, the management company will begin to determine eligibility of the applicants based on the Section 1602 regulations and tenant selection criteria.
- The management company will verify income and assets, perform a credit/criminal check, verify student status and citizenship and as a final step to approval, the management company will complete a home visit to determine eligibility according to the Section 1602 regulations. A copy of the criminal background check regardless of the findings: the management company will forward a copy of these documents to the PBVC.
- Once an applicant has been referred to the management company, they will determine eligibility as described in the ACOP.

- After all income and assets documentation is received, the management company will provide it to the BHHC so they can complete their process according to the BHHC Administrative Plan. If an applicant is rejected according to the terms of the ACOP/Admin Plan, management will notify the BHHC so the applicant can be removed from the waiting list.

Interim Adjustments:

- Residents will contact the BHHC directly for interim adjustments to their payment amounts.
- Residents should notify the management company about any changes in household composition.
- The management company will determine if household members may be added/deleted from the household in accordance with Section 1602 regulations and the ACOP guidelines and Admin. Guidelines.
- When eligibility is determined, the management company will notify BHHC PBV Coordinator of the changes so the BHHC can approve/deny the changes based on the Project Based Voucher Guidelines established by the Agency Administrative Plan.

Legal Action:

The management company agrees to notify BHHC on any legal action that may begin on existing residents who receive a project-based voucher.

_____

BHHC Date

_____

Benton Harbor Hope VI Phase IV, LDHALP Date

_____

Management Company Date

_____

Project Based Voucher Coordinator Date

_____

On-Site Management Staff Date

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Treasurer/Chairman Finance Committee

AMENDMENT VAWA POLICY
FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010
BENTON HARBOR HOUSING COMMISSION AMENDS ITS
SECTION 8 TENANT-BASED ASSISTANCE:
HOUSING CHOICE VOUCHER PROGRAM

The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535d.

Amend Sec. 982.53 to revise the section heading and paragraph (e) to read as follows:

Sec. 982.53 Equal opportunity requirements and protection for victims of domestic violence, dating violence, or stalking.

* * * * *

(e) Protection for victims of domestic violence, dating violence, or stalking. The PHA must apply 24 CFR part 5, subpart L, in all applicable cases where there is involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

Amend Sec. 982.201 to revise paragraph (a) to read as follows:

Sec. 982.201 Eligibility and targeting.

(a) When applicant is eligible: general. The PHA may admit only eligible families to the program. To be eligible, an applicant must be a ``family;" must be income-eligible in accordance with paragraph (b) of this section and 24 CFR part 5, subpart F; and must be a citizen or a noncitizen who has eligible immigration status as determined in accordance with 24 CFR part 5, subpart E. If the applicant is a victim of domestic violence, dating violence, or stalking, 24 CFR part 5, subpart L, applies.

* * * * *

Revise Sec. 982.202(d) to read as follows:

Sec. 982.202 How applicants are selected: General requirements.

* * * * *

(d) Admission policy. The PHA must admit applicants for participation in accordance with HUD regulations and other requirements, including, but not limited to, 24 CFR part 5, subpart L, protection for victims of domestic violence, dating violence, or stalking, and with PHA policies stated in the PHA administrative plan and the PHA plan. The PHA

admission policy must state the system of admission preferences that the PHA uses to select applicants from the waiting list, including any residency preference or other local preference.

* * * * *

Amend Sec. 982.307 to revise paragraph (b)(4) to read as follows:

Sec. 982.307 Tenant screening.

* * * * *

(4) In cases involving a victim of domestic violence, dating violence, or stalking, 24 CFR part 5, subpart L, applies.

Revise Sec. 982.310(h)(4) to read as follows:

Sec. 982.310 Owner termination of tenancy.

(4) Nondiscrimination limitation and protection for victims of domestic violence, dating violence, or stalking. The owner's termination of tenancy actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105, and with the provisions for protection of victims of domestic violence, dating violence, or stalking in 24 CFR part 5, subpart L.

In Sec. 982.314, revise paragraphs (b) and (c)(2) to read as follows:

Sec. 982.314 Move with continued tenant-based assistance.

* * * * *

(b) When family may move. A family may move to a new unit if:

(1) The assisted lease for the old unit has terminated. This includes a termination because:

(i) The PHA has terminated the HAP contract for the owner's breach; or

(ii) The lease has terminated by mutual agreement of the owner and the tenant.

(2) The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant.

(3) The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for owner breach, or otherwise).
(4) The family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit.

* * * * *

(2) The PHA may establish:

(i) Policies that prohibit any move by the family during the initial lease term; and

(ii) Policies that prohibit more than one move by the family during any one-year period.

(iii) The above policies do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member.

* * * * *

In Sec. 982.315, re-designate paragraph (a) as paragraph (a)(1) and add a new paragraph (a)(2), and revise paragraph (b) to read as follows:

Sec. 982.315 Family break-up.

* * * * *

(2) If the family break-up results from an occurrence of domestic violence, dating violence, or stalking as provided in 24 CFR part 5, subpart L, the PHA must ensure that the victim retains assistance.

(b) The factors to be considered in making this decision under the PHA policy may include:

(1) Whether the assistance should remain with family members remaining in the original assisted unit.

(2) The interest of minor children or of ill, elderly, or disabled family members.

(3) Whether family members are forced to leave the unit as a result or actual or threatened domestic violence, dating violence, or stalking.
(4) Whether any of the family members are receiving protection as victims of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L, and whether the abuser is still in the household.

(5) Other factors specified by the PHA.

* * * * *

Revise the last sentence of Sec. 982.353(b) to read as follows:

Sec. 982.353 Where family can lease a unit with tenant-based assistance.

* * * * *

The initial PHA must not provide such portable assistance for a participant if the family has moved out of the assisted unit in violation of the lease, except that if the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit, and has otherwise complied with all other obligations under the Section 8 program, the family may receive a voucher from the PHA and move to another jurisdiction under the Housing Choice Voucher Program.

* * * * *

Amend Sec. 982.452(b)(1) to revise the second sentence to read as follows:

Sec. 982.452 Owner responsibilities.

* * * * *

The fact that an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of tenancy if the applicant otherwise qualifies for tenancy.

* * * * *

Revise Sec. Sec. 982.551(e) and 982.551(l) to read as follows:

Sec. 982.551 Obligations of participant.

* * * * *

(e) Violation of lease. The family may not commit any serious or repeated violation of the lease. Under 24 CFR 5.2005(c)(1), an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim or threatened victim of the domestic violence, dating violence, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

* * * * *

(l) Crime by household members. The members of the household may 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 Sec. 982.553). Under 24 CFR 5.2005(c)(2), criminal activity directly related 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 cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or immediate family member of the tenant is the victim.

* * * * *

Revise Sec. 982.552(c)(2)(v) to read as follows:

Sec. 982.552 PHA denial or termination of assistance for the family.

* * * * *

(v) Nondiscrimination limitation and protection for victims of domestic violence, dating violence, or stalking. The PHA's admission and termination actions must be consistent with fair housing and equal opportunity provisions of Sec. 5.105 of this title, and with the requirements of 24 CFR part 5, subpart L, protection for victims of domestic violence, dating violence, or stalking.

* * * * *

Amend Sec. 982.553 to revise paragraph (e), to read as follows:

Sec. 982.553 Denial of admission and termination of assistance for criminals and alcohol abusers.

* * * * *

(e) In cases of criminal activity related to domestic violence, dating violence, or stalking, the victim protections of 24 CFR part 5, subpart L, apply.

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)
EID	Earned income disallowance
EIV	Enterprise Income Verification
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
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)
MTW	Moving to Work
NOFA	Notice of funding availability
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PHA	Public housing agency
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
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UIV	Upfront income verification
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 persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

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 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

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

Citizen. *A* citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

***Covered families*.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

***Disability assistance expenses*.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family*.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

***Displaced family*.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

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

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. 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 24 CFR 5.603(c).

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 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 as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed 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. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). See *public housing agency.*

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Immediate family member. A spouse, parent, brother, 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. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed income. The HUD passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities.*

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the PHA to select among applicant families.

Low-Income Family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative.*

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

Qualified census tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based 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. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for tenancy approval. 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.*

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

***Utility allowance*.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

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.

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Treasurer/Chairman Finance Committee

AMENDMENT VAWA POLICY
FINAL GUIDANCE – FEDERAL REGISTER – OCTOBER 27, 2010
BENTON HARBOR HOUSING COMMISSION AMENDS ITS PROJECT-BASED VOUCHER PROGRAM

The authority citation for part 983 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

Amend Sec. 983.4 to add a new proviso in alphabetical order, as follows:

Sec. 983.4 Cross-reference to other Federal requirements.

* * * * *

Protection for victims of domestic violence, dating violence, or stalking. See 24 CFR part 5, subpart L.

* * * * *

Amend Sec. 983.251 to revise paragraph (a)(3) to read as follows:

Sec. 983.251 How participants are selected.

(3) The protections for victims of domestic violence, dating violence, or stalking in 24 CFR part 5, subpart L, apply to admission to the project-based program.

* * * * *

Amend Sec. 983.255 to revise paragraph (d) to read as follows:

Sec. 983.255 Tenant screening.

* * * * *

(d) The protections for victims of domestic violence, dating violence, or stalking in 24 CFR part 5, subpart L, apply to tenant screening.

Amend Sec. 983.257 to revise the last sentence of paragraph (a) to read as follows:

Sec. 983.257 Owner termination of tenancy and eviction.

Part 5, subpart L of 24 CFR, on protection for victims of domestic violence, dating violence, or stalking applies to this part.

* * * * *

Benton Harbor Housing Commission

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Executive Director

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AMENDMENT ADMINSTRATIVE PLAN

BENTON HARBOR HOUSING COMMISSION AMENDS ITS SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

Notice PIH 2011 – 3 (HA)

Offices of Public Housing; PIH Program Center Issued: January 19, 2011
Coordinators; Public Housing Agencies
Administering Housing Choice Voucher Programs
Expires: January 31, 2012

_____

Cross References: HUD Notice 2008-43
HUD Notice PIH 2004-12
HUD Notice PIH 2007-5

The PHA must establish policies in its Administrative Plan which state how the agency will address families who have requested a move and were denied due to lack of funding once the PHA has determined funds are available for those moves. At a minimum, the PHA policy must address:

 How the PHA will inform families of the PHA's local policy regarding moves denied due to lack of funding; i.e., information contained in briefing packets or in a letter to the tenant at the time the move is denied.

BHHC Policy
BHHC will notify families regarding moves denied under the Portability Guidance by: Information contained in the Briefing Packet and by US Mail to the last known address.

 How long the family's request to move will be open for consideration and how the PHA will notify families with open requests when funds become available.

BHHC Policy
The maximum time that a family's request to move will be open for consideration after a denial is issued due to lack of funding will be no more than 12 calendar months and/or the next available funding cycle. Should the family's time limit expire prior to additional funding, the family must resubmit another request to move under the guidelines according to Chapter 10 of the BHHC Administrative Plan.
Prior to the Maximum time limit BHHC will notify families of available funds and/or their need to resubmit another request under the guidelines according to Chapter 10 of the Administrative Plan.

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 10/31/2014)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
CAPITAL FUNDS PROGRAM	**MI010**	

4. OMB Catalog Number(s)	5. Name and address of responsible entity
	City of Benton Harbor Benton Harbor, MI 49022
6. For information about this request, contact (name & phone number) JUANITA GIBBS (269) 927-3546 EXT 16	
8. HUD or State Agency and office unit to receive request HUD Detroit Field Office	7. Name and address of recipient (if different than responsible entity) Benton Harbor Housing Commission 721 Nate Wells Drive Benton Harbor, MI 49022

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
BUSS Development Harbor Towers Scatter Sit e Housing	925 Buss Ave. 250 East Wall Street Various Locations Benton Harbor, MI 49022

11. Program Activity/Project Description

BUSS Street Development

1. **Fence Replacement**
2. **Appliance Replacement**
3. **Exterior Painting**
4. **Removal of Maintenance Shop and Guard Shack**

Harbor Towers

1. **Exterior Upgrade and General Maintenance Upgrade**
2. **Re-Key Unit Entry Doors**
3. **Replacement of Exterior Security Gates**
4. **Installation Air/Heating Upgrade**

Scatter Site(s)

1. **10-5 Various Upgrades and Repairs**
2. **10-7 Various Upgrades and Repairs**
3. **10-9 Various Upgrades and Repairs**
4. **10-10 No work Performed**

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity	Title of Certifying Officer **EFM / City of Benton Harbor**
X	Date signed **07/10/2012**

Address of Certifying Officer
200 East Wall Street
Benton Harbor, MI 49022

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer **Executive Director** **Benton Harbor Housing commission**
X	Date signed **07/09/2012**

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

ATTACHMENT B
ENVIRONMENTAL CHECKLIST AND ENVIRONMENTAL ASSESSMENT CHECKLIST
STATUTORY WORKSHEET

24 CFR §58.6 STATUTES, EXECUTIVE ORDERS & REGULATIONS

PROJECT NAME and DESCRIPTION - Benton Harbor Housing commission MI010-3 Harbor Towers and Scatter Site Housing
This project is determined to be categorically excluded according to: [Cite section(s)] _____.
DIRECTIONS - Write "**A**" in the Status Column when the project, by its nature, does not affect the resources under consideration; OR write "**B**" if the project triggers formal compliance consultation procedures with the oversight agency, or requires mitigation (see Statutory Worksheet Instructions). Compliance documentation must contain verifiable source documen and relevant base data.

Regulations listed at 24 CFR §58.5 — Compliance Documentation

	Not applicable to this project	Consultation Required	Review required	Permits required	Determination of Consistency	Approvals, Permits Obtained	Conditions and/or Mitigation	Actions Required	
Historic Preservation [36 CFR Part 800]									
Floodplain Management [24 CFR 55, Executive Order 11988]									
Wetland Protection [Executive Order 11990]									This proposal includes no new construction activities. Therefore, it does not have the capacity to cause effects under E.O. 11990.
Coastal Zone Management Act [Sections 307(c), (d)]									
Water Quality - Aquifers									This proposal includes no new construction activities. Therefore, it does not have the capacity to cause effects under E.O. 11990
Sole Source Aquifers [40 CFR 149]									
Endangered Species Act [50 CFR 402]									This proposal involves neither development of raw land nor any major construction activity. Therefore, it does not have the potential to affect threatened or endangered species, or modify critical habitats.
Wild and Scenic Rivers Act [Sections 7(b), and (c)]									Proposal does not have the capacity to affect the scenic, geological, recreation, wildlife, or free-flowing condition of any W & S River.
Clean Air Act - [Sections 176(c), (d), and 40 CFR 6, 51, 93]									This proposal does not have the potential to emit significant emissions of air pollution. Thus, it is in compliance with the applicable State or Tribal Implementation Plan prepared under the Clean Air Act.
Farmland Protection Policy Act [7 CFR 658]									This proposal does not convert agricultural land to non-agricultural uses. Therefore, it is in compliance with the Farmland Protection Act.
Environmental Justice [Executive Order 12898]									This proposal does not create any hazards nor expose anyone to adverse environmental conditions. Therefore, it is in compliance with E.O. 12898.
HUD ENVIRONMENTAL STANDARDS Noise Abatement and Control [24 CFR 51B]									This proposal does not involve any "noise sensitive land development." Therefore, it is a priori in compliance with HUD regulation 24 CFR 51B.
Explosive and Flammable Operations [24 CFR 51C]									
Toxic Chemicals and Radioactive Materials [24 CFR 58.5(i)(2)]									
Airport Clear Zones and Accident Potential Zones [24 CFR 51D]									
Federal Requirements									
Flood Insurance - 58.6(a)									
Coastal Barriers - 58.6(b)									
Water Quality									This proposal includes no new construction activities. Therefore, it does not have the capacity to cause effects under E.O. 11990.
Solid Waste Disposal									This proposal does not create any hazards nor expose anyone to adverse environmental conditions. Therefore, it is in compliance with E.O. 12898.
Fish and Wildlife									This proposal does not create any hazards nor expose anyone to adverse environmental conditions. Therefore, it is in compliance with E.O. 12898.
Any additional State or Local Statues									

PREPARER SIGNATURE: Joseph L. Harris DATE: 07/09/2012

PREPARER NAME: Joseph L. Harris

RESPONSIBLE ENTITY AGENCY OFFICIAL / SIGNATURE: City of Benton Harbor, MI

NAME, TITLE: Joseph Harris / EFM/ City of Benton Harbor, MI DATE: 07/10/2012

ATTACHMENT B
ENVIRONMENTAL CHECKLIST AND ENVIRONMENTAL ASSESSMENT CHECKLIST
STATUTORY WORKSHEET

24 CFR §58.6 STATUTES, EXECUTIVE ORDERS & REGULATIONS

PROJECT NAME and DESCRIPTION - Benton Harbor Housing commission MI010-2 BUSS Development and Scatter Site Housing
This project is determined to be categorically excluded according to: [Cite section(s)] _____.
DIRECTIONS - Write "**A**" in the Status Column when the project, by its nature, does not affect the resources under consideration; OR write "**B**" if the project triggers formal compliance consultation procedures with the oversight agency, or requires mitigation (see Statutory Worksheet Instructions). Compliance documentation must contain verifiable source documen and relevant base data.

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Clean Air Act - [Sections 176(c), (d), and 40 CFR 6, 51, 93]									This proposal does not have the potential to emit significant emissions of air pollution. Thus, it is in compliance with the applicable State or Tribal Implementation Plan prepared under the Clean Air Act.
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Any additional State or Local Statues									

PREPARER SIGNATURE: _____ DATE: 07/09/2012

PREPARER NAME: Joseph L. Harris

RESPONSIBLE ENTITY AGENCY OFFICIAL / SIGNATURE: City of Benton Harbor, MI

NAME, TITLE: Joseph Harris / EFM City of Benton Harbor, MI DATE: 07/10/2012

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Benton Harbor Housing Commission MI010

Program/Activity Receiving Federal Grant Funding

Capital Funds Program

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

BHHC Administrative Office 721 Nate Wells Drive
BUSS Development 925 Buss Ave.
Harbor Towers 250 East Wall Street
Scatter Site Housing Various Locations

Benton Harbor, MI 49022

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Juanita Gibbs	Executive Director

Signature

X Juanita Gibbs

Date

7/9/12

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing OMB# 2577-0226 Expires 08/30/2011

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan

I, Joseph Harris the EFM / City of Benton Harbor, MI certify that the Five Year and Annual PHA Plan of the;
BENTON HARBOR HOUSING COMMISSION is consistent with the Consolidated Plan of STATE OF MICHICAN COUNTY OF BERRIEN prepared pursuant to 24 CFR Part 91.

Joseph Harris 7/17/2012

Signed / Dated by Appropriate State or Local Official

PHA Certifications of Compliance with PHA Plans and Related Regulations

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 08/30/2011

PHA Certifications of Compliance with the PHA Plans and Related Regulations: Board Resolution to Accompany the PHA 5-*Year and Annual* PHA Plan

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the___ 5-Year and/or_**X**_ Annual PHA Plan for the PHA fiscal year beginning, **October 1, 2012** hereinafter referred to as" the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:*

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA certifies that there has been no change, significant or otherwise, to the Capital Fund Program (and Capital Fund Program/Replacement Housing Factor) Annual Statement(s), since submission of its last approved Annual Plan. The Capital Fund Program Annual Statement/Annual Statement/Performance and Evaluation Report must be submitted annually even if there is no change.
4. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Board or Boards in developing the Plan, and considered the recommendations of the Board or Boards (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
7. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and maintain records reflecting these analyses and actions.
8. For PHA Plan that includes a policy for site based waiting lists:
   - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2006-24);
   - The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
   - Adoption of site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
   - The PHA shall take reasonable measures to assure that such waiting list is consistent with affirmatively furthering fair housing;
   - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
10. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
11. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
12. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.

13. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
14. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
15. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
16. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
17. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
18. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
19. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
20. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
21. The PHA provides assurance as part of this certification that:
    (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
    (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
    (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
22. The PHA certifies that it is in compliance with all applicable Federal statutory and regulatory requirements.

Benton Harbor Housing Commission	MI010
PHA Name	PHA Number/HA Code

5-Year PHA Plan for Fiscal Years 20 - 20

Annual PHA Plan for Fiscal Years 2012- 2012

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Ralph Crenshaw	Board Chairman/Benton Harbor Housing Commission
Signature: Ralph Crenshaw	Date: 07/09/2012

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
[B] a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
[A] a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
[A] a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
[x] **Prime** [ ] **Subawardee**
Tier _____, *if known*:

Congressional District, *if known*: 4c

5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:
U.S. DEPARTMENT OF HOUSING (HUD)

7. Federal Program Name/Description:
CAPITAL FUNDS PROGRAM/MI33P01050112
CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$ 412.960.00

10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):

b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: Juanita Gibbs
Print Name: JUANITA GIBBS
Title: EXECUTIVE DIRECTOR
Telephone No.: 269-927-3546 EXT 16 Date: 07/09/2012

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

OMB Approval No. 2577-0157 (Exp. 01/31/2014)

Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Applicant Name

BENTON HARBOR HOUSING COMMISSION

Program/Activity Receiving Federal Grant Funding

CAPITAL FUNDS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
JUANITA GIBBS	EXECUTIVE DIRECTOR
Signature	**Date (mm/dd/yyyy)**
Juanita Gibbs	07/06/2012 JG

Previous edition is obsolete **form HUD 50071** (3/98)

ref. Handbooks 7417.1, 7475.13, 7485.1, & 7485.3

Civil Rights Certification

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Expires 08/30/2011

Civil Rights Certification

Annual Certification and Board Resolution

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioner, I approve the submission of the Plan for the PHA of which this document is a part and make the following certification and agreement with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

Benton Harbor Housing Commission	MI010
PHA Name	PHA Number/HA Code

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title BOARD CHAIRMAN/ BENTON HARBOR HOUSING COMMISSION
Signature Ralph Cronshaw	Date 07/09/2012

BHHC

Benton Harbor Housing Commission

Juanita Gibbs
Executive Director

Joyce Hardin
Resident Commissioner

Ora Greenwood
Commissioner

721 Nate Wells Drive
Benton Harbor, Michigan 49022
TEL: (269) 927-3546
FAX: (269) 927- 6112
TDD: (269) 927-6511

Ralph Crenshaw
President/Chairman

Charles Yarbrough
Treasurer/Chairman Finance Committee

Resolution: #1106b

RESOLUTION

Approval of the Benton Harbor Housing Commission 2012 Budget

June 21, 2011

The Benton Harbor Housing Commission has reviewed approved and will executed the 2012 Budget

Commissioner	Vote	Date and Time Polled
Commissioner Crenshaw	*YES*	*6/30/11 1:15pm*
Commissioner Greenwood	____	____
Commissioner Hardin	*YES*	*7/14/11 12:24pm*
Commissioner Yarbrough	*YES*	*6/30/11 8:54am*

Juanita Gibbs
BHHC, Executive Director

Ralph Crenshaw
BHHC, Board President

Providing Safe, Decent, Sanitary Housing Since 1949

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12

Maual Input
Formula
Do Not Change/No Info Necessary/Locked

Last updated 6/15/2011

	Project 3&5	Project 2, 7,&9	Tax Credit
Name of Projects			
Family/Elderly			
Scatter Site			
Age/Year Built			
Recently Rennovated			
Units			
Average Bedroom Size			
Occupancy			
# of Turnovers			

NOTE: Due to rounding there might be $1 differences

REAC	HUD Fund #		Public Housing						
Line No.	Acct.	Units	141 AMP 1	135 AMP 2	86 AMP 5&6	362 PH Project Totals	201 Voucher	COCC	563 Consolidated
Revenues									
Operating Receipts									
	3100	Gross Potential Rents	307,944	200,880	-	508,824			508,824
	3105	Vacancy Loss	(30,794)	(10,044)	-	(40,838)			(40,838)
70300	3110/3420	**Net Dwelling Rental**	277,150	190,836	-	467,986	-		467,986
70400	3120/442	Excess Utilities	-	500	-	500	-		500
70400	3190	Nondwelling Rental	-	-	-	-	-		-
70500	**Total**	**Rental Income**	277,150	191,336	-	468,486	-		468,486
70600	3691	Operating Subsidy	349,461	501,711	271,494	1,122,666			1,122,666
70600	3691.1	Capital Funds - Soft Cost	-	-	-	-		-	-
70600		FSS Grant				-	-		-
70600		HUD Admin Fees				-	103,200		103,200
70710		Voucher/ Mainstream Management Fee				-		-	-
70710		Capital Grant Management Fee				-		52,827	52,827
70710		Management Fee AMPs				-		201,438	201,438
70720		Asset Management Fee				-		-	-
70730		Book Keeping Fee AMPs				-		22,964	22,964
70730		Book Keeping Fee Voucher				-		-	-
70740		Front Line Service Fee				-			-
70750		Other Fees				-			-
70800		Other Govt. Grants - fill in type ex. ROSS, TANF				-			-
70800		Other Govt. Grants - fill in type				-			-
71100	3610	Interest on General Fund Investments	100	100	-	200	-	-	200
71400		Fraud Recovery				-			-
71500	3690	Other Income	8,000	13,000	-	21,000	-	12,400	33,400
71600		Gain or Loss on Sale of Capital Assets				-			-
72000		Investment Income Resticted				-			-
	Total	**Operating Income**	634,711	706,147	271,494	1,612,352	103,200	289,628	2,005,180
Operating Expenditures - Administration:									
91100	4110	Administrative Salaries (Direct)	48,110	52,754	-	100,863	59,361	149,307	309,531
91100	4110.1	Administrative Salaries (Front-Line)	-	-	-	-	-		-
91100		Administriative Salaries (CFP)				-			-
91200	4171	Auditing Fees	4,000	4,000	-	8,000	2,500	500	11,000
91300		Voucher Management Fee				-	-		-

**Please note that numbers/amounts may differ slightly due to rounding/formulas.

REAC	HUD Fund #		Public Housing						
Line No.	Acct.	Units	141 AMP 1	135 AMP 2	86 AMP 5&6	362 PH Project Totals	201 Voucher	COCC	563 Consolidated
Revenues									
91300		Capital Grant Management Fee				-			-
91300		Mgmt Fee AMPs	80,419	81,275	39,744	201,438			201,438
91310		Book Keeping Fee	11,421	11,543	-	22,964	-		22,964
91400	4120	Advertising & Marketing	500	500	-	1,000	-	-	1,000
91500	4182	Employee Benefit Contributions (Direct)	16,425	17,090	-	33,515	13,097	33,279	79,891
91500	4182.1	Employee Benefit Contributions (Front-Line)	-	-	-	-	-		-
91600	4160	Office Expenses	21,625	27,525	-	49,150	10,300	24,000	83,450
91700	4130	Legal Expense	7,000	3,000	-	10,000	-	3,200	13,200
91800	4150	Travel	1,000	1,000	-	2,000	-	1,000	3,000
91900	4140	Staff Training	2,000	2,000	-	4,000	-	2,000	6,000
91900	4170	Accounting Fees	-	-	-	-	6,000	11,000	17,000
91900	4180	Office Rent	-	-	-	-	-	-	-
91900	4190	Other Sundry	6,625	6,625	-	13,250	5,400	2,300	20,950
Total		Administrative Expense	199,124	207,311	39,744	446,179	96,658	226,586	769,423
92000		Asset Management Fee	-	-	-	-			-
Tenant Services:									
92100	4210	Salaries	-	-	-	-	-		-
92200	4220	Recreation, Publications and Other Services	-	-	-	-	-		-
92300	4282	Employee Benefit Contributions	-	-	-	-	-		-
92400	4230	Contract Costs, Training and Other	2,400			2,400			2,400
Total		Tenant Services Expense	2,400	-	-	2,400	-	-	2,400
Utilities:									
93100	4310	Water	17,100	11,900	-	29,000	-	1,800	30,800
93200	4320	Electricity	54,400	37,400	-	91,800	-	31,300	123,100
93300	4330	Gas	36,100	10,000	-	46,100	-	6,300	52,400
93400	4340	Fuel	-	-	-	-	-	-	-
93600	4360	Sewer	8,875	19,500	-	28,375	-	1,700	30,075
93700	4390	Other Utilities Expense	-	-	-	-	-	-	-
Total		Utilities Expense	116,475	78,800	-	195,275	-	41,100	236,375
Ordinary Maintenance and Operations:									
94100	4410	Labor (Direct)	76,560	75,293	-	151,852	-	-	151,852
94200	4420	Materials	13,000	26,000	-	39,000		750	39,750
94300-010	4431	Garbage & Trash Removal	9,600	2,700	-	12,300	-	2,500	14,800
94300-020	4430.01	Heating & Cooling	1,500	1,500	-	3,000	-	-	3,000
94300-030	4430.02	Snow Removal	750	350	-	1,100	-	1,000	2,100
94300-040	4430.03	Elevator Maintenance	22,000	-	-	22,000	-	-	22,000
94300-050	4430.04	Landscaping & Grounds	3,000	3,000	-	6,000	-	600	6,600
94300-060	4430.05	Unit Turnaround	9,000	18,000	-	27,000	-	-	27,000
94300-070	4430.06	Electrical	1,000	2,000	-	3,000	-	-	3,000
94300-080	4430.07	Plumbing	5,000	12,000	-	17,000	-	-	17,000
94300-090	4430.08	Extermination	25,000	6,400	-	31,400	-	-	31,400
94300-100	4430.09	Janitorial	-	-	-	-	-	200	200
94300-110	4430.10	Routine Contract Costs	2,900	1,700	-	4,600	-	2,000	6,600
94300-120	4430.11	Miscellaneous Contracts	1,500	1,500	-	3,000	-	-	3,000
94500	4433	Employee Benefit Contributions-Maint	26,522	26,305	-	52,828	-	-	52,828
94000 Total		Ordinary Maintenance and Operating Expense	197,332	176,748	-	374,080	-	7,050	381,130
Protective Services:									
95100	4460	Labor				-			-
95200	4480	Contract Costs	-	2,400		2,400			2,400

**Please note that numbers/amounts may differ slightly due to rounding/formulas.

REAC	HUD Fund #		Public Housing						
Line No.	Acct.	Units	141 AMP 1	135 AMP 2	86 AMP 5&6	362 PH Project Totals	201 Voucher	COCC	563 Consolidated
Revenues									
95300	4470	Materials				-			-
95500	4482	Employee Benefits				-			-
95000 Total		**Protective Services Expense**	-	2,400	-	2,400	-	-	2,400
Insurance Expense:									
96110	4510.02	Property Insurance	24,466	32,100	-	56,566	1,500	2,900	60,966
96120	4510.03	Liability Insurance	10,960	11,930	-	22,890	-	500	23,390
96130	4510.01	Workers' Comp Insurance	2,800	3,000	-	5,800	-	3,800	9,600
96140	4510.00	Other Insurance	4,000	4,000	-	8,000	-	5,200	13,200
96100 Total		**Insurance**	42,226	51,030	-	93,256	1,500	12,400	107,156
General Expense									
96200	4590	Other General Expenses	-	-	225,057	225,057	1,500		226,557
96210	4560	Compensated Absences	-	-		-	-	-	-
96300	4520	Payments in Lieu of Taxes	16,524	11,819		28,343			28,343
96400	4570	Collection Losses	-	-	-	-			-
96800	4530	Terminal Leave Payments				-			-
9600 Total		**General Expense**	16,524	11,819	225,057	253,400	1,500	-	254,900
96710		Interest expense - Mort or Bonds	-	-		-		-	-
96720		Interest expense - Notes	-	-		-		-	-
96730		Amortization of Bond Issue cost	-	-	-	-	-	-	-
96700 Total		**Total Interest Expense and Amortization Cost**	-	-	-	-	-	-	-
96900 Total		**Operating Expenditures**	574,081	528,108	264,801	1,366,990	99,658	287,136	1,753,784
Nonoperating Expenditures:									
97100	4610	Extraordinary Maintenance	-	-	-	-	-	-	-
97200	4620	Casualty Losses	-	-		-	-	-	-
		Debt Payments - Principal				-			-
		Debt Payments - To Reserve				-			-
		Debt Payments - Overage				-			-
		Debt Service - Capital Funds				-			-
		Capital Expenditures - Operations	-	-	-	-		-	-
	Total	Nonoperating Expenditures	-	-	-	-	-	-	-
	Total	**Total Expenditures**	574,081	528,108	264,801	1,366,990	99,658	287,136	1,753,784
		Allocated Overhead expenses	-	-	-	-	-	-	-
		Cash Flow from Operations	60,629	178,039	6,693	245,362	3,542	2,492	251,396
1104	6010	Prior Period Adjustments				-			-
		Net Income (Loss) after Prior Period Adjustments	60,629	178,039	6,693	245,362	3,542	2,492	251,396
		Subtract: Depreciation	-	-		-	-	-	-
		Add: Capital Expenditures - Operations	-	-	-	-	-	-	-
		Add: Debt Principal Payments	-	-	-	-	-	-	-
		Net Income (Loss) to Balance Sheet	60,629	178,039	6,693	245,362	3,542	2,492	251,396
				Check					251,396

Housing Choice Other Programs - HAP Balance	HAP
Beginning Equity	
Estimated for FYE XX/XX/XX	

**Please note that numbers/amounts may differ slightly due to rounding/formulas.

REAC	HUD		Public Housing						
	Fund #								
Line	Acct.	Units	141	135	86	362	201		563
No.			AMP 1	AMP 2	AMP 5&6	PH Project Totals	Voucher	COCC	Consolidated
Revenues									
		Actual for FYE XX/XX/XX							
		HAP Balance at End of Current Budget Year					0		
		HAP Revenue for Budgeted Year							
		Fraud Recovery							
		Interest Income							
		Total Revenue					0		
		HAP Expenses for Budgeted Year							
		Total Expenses					0		
		Ending Equity					0		

**Please note that numbers/amounts may differ slightly due to rounding/formulas.

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
PUMs

Manual Input
Formula

of Months 12

REAC Line No.	HUD Acct. No.	Units / Description	PUBLIC HOUSING 1692 AMP 1	1620 AMP 2	1032 AMP 3	4344 PH Project Totals
Revenues						
Operating Receipts						
	3100	Gross Potential Rents	182.00	124.00	0.00	117.13
	3105	Vacancy Loss	-18.20	-6.20	0.00	-9.40
70300	3110/3420	**Net Dwelling Rental**	163.80	117.80	0.00	107.73
70400	3120/442	Excess Utilities	0.00	0.31	0.00	0.12
70400	3190	Nondwelling Rental	0.00	0.00	0.00	0.00
70500	**Total**	**Rental Income**	163.80	118.11	0.00	107.85
70600	3691	Operating Subsidy	206.54	309.70	263.08	258.44
70600	3691.1	Capital Funds - Soft Cost	0.00	0.00	0.00	0.00
70600		FSS Grant	0.00	0.00	0.00	0.00
70600		HUD Admin Fees	0.00	0.00	0.00	0.00
70800		Other Govt. Grants - fill in type ex. ROSS, TANF	0.00	0.00	0.00	0.00
70800		Other Govt. Grants - fill in type	0.00	0.00	0.00	0.00
71100	3610	Interest on General Fund Investments	0.06	0.06	0.00	0.05
71400		Fraud Recovery	0.00	0.00	0.00	0.00
71500	3690	Other Income	4.73	8.02	0.00	4.83
71600		Gain or Loss on Sale of Capital Assets	0.00	0.00	0.00	0.00
72000		Investment Income Resticted	0.00	0.00	0.00	0.00
Total		**Operating Income**	375.12	435.89	263.08	371.17
Operating Expenditures - Administration:						
91100	4110	Administrative Salaries (Direct)	28.43	32.56	0.00	23.22
91100	4110.1	Administrative Salaries (Front-Line)	0.00	0.00	0.00	0.00
91100		Administriative Salaries (CFP)	0.00	0.00	0.00	0.00
91200	4171	Auditing Fees	2.36	2.47	0.00	1.84
		Voucher Management Fee	0.00	0.00	0.00	0.00
		Capital Grant Management Fee	0.00	0.00	0.00	0.00

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
PUMs

Manual Input
Formula

of Months 12

REAC Line No.	HUD Acct. No.	Units / Description	PUBLIC HOUSING 1692 AMP 1	1620 AMP 2	1032 AMP 3	4344 PH Project Totals
Revenues						
		Mgmt Fee	47.53	50.17	38.51	46.37
91310		Book Keeping Fee	6.75	7.13	0.00	5.29
91400	4120	Advertising & Marketing	0.30	0.31	0.00	0.23
91500	4182	Employee Benefit Contributions (Direct)	9.71	10.55	0.00	7.72
91500	4182.1	Employee Benefit Contributions (Front-Line)	0.00	0.00	0.00	0.00
91600	4160	Office Expenses	12.78	16.99	0.00	11.31
91700	4130	Legal Expense	4.14	1.85	0.00	2.30
91800	4150	Travel	0.59	0.62	0.00	0.46
	4140	Staff Training	1.18	1.23	0.00	0.92
	4170	Accounting Fees	0.00	0.00	0.00	0.00
	4180	Office Rent	0.00	0.00	0.00	0.00
	4190	Other Sundry	3.92	4.09	0.00	3.05
Total		Administrative Expense	117.69	127.97	38.51	102.71
92000		Asset Management Fee	0.00	0.00	0.00	0.00
Tenant Services:						
92100	4210	Salaries	0.00	0.00	0.00	0.00
92200	4220	Recreation, Publications and Other Services	0.00	0.00	0.00	0.00
92300	4282	Employee Benefit Contributions	0.00	0.00	0.00	0.00
92400	4230	Contract Costs, Training and Other	1.42	0.00	0.00	0.55
Total		Tenant Services Expense	1.42	0.00	0.00	0.55
Utilities:						
93100	4310	Water	10.11	7.35	0.00	6.68
93200	4320	Electricity	32.15	23.09	0.00	21.13
93300	4330	Gas	21.34	6.17	0.00	10.61
93400	4340	Fuel	0.00	0.00	0.00	0.00
93600	4360	Sewer	5.25	12.04	0.00	6.53

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
PUMs

Manual Input
Formula

of Months 12

REAC Line No.	HUD Acct. No.	Units / Description	PUBLIC HOUSING 1692 AMP 1	1620 AMP 2	1032 AMP 3	4344 PH Project Totals
Revenues						
93700	4390	Other Utilities Expense	0.00	0.00	0.00	0.00
Total		Utilities Expense	68.84	48.64	0.00	44.95
Ordinary Maintenance and Operations:						
94100	4410	Labor (Direct)	45.25	46.48	0.00	34.96
94200	4420	Materials	7.68	16.05	0.00	8.98
94300-0	4431	Garbage & Trash Removal	5.67	1.67	0.00	2.83
94300-0	4430.01	Heating & Cooling	0.89	0.93	0.00	0.69
94300-0	4430.02	Snow Removal	0.44	0.22	0.00	0.25
94300-0	4430.03	Elevator Maintenance	13.00	0.00	0.00	5.06
94300-0	4430.04	Landscaping & Grounds	1.77	1.85	0.00	1.38
94300-0	4430.05	Unit Turnaround	5.32	11.11	0.00	6.22
94300-0	4430.06	Electrical	0.59	1.23	0.00	0.69
94300-0	4430.07	Plumbing	2.96	7.41	0.00	3.91
94300-0	4430.08	Extermination	14.78	3.95	0.00	7.23
94300-1	4430.09	Janitorial	0.00	0.00	0.00	0.00
94300-1	4430.10	Routine Contract Costs	1.71	1.05	0.00	1.06
94300-1	4430.11	Miscellaneous Contracts	0.89	0.93	0.00	0.69
94500	4433	Employee Benefit Contributions-Maint	15.68	16.24	0.00	12.16
94000 Total		**Ordinary Maintenance and Operating Expense**	116.63	109.10	0.00	86.11
Protective Services:						
95100	4460	Labor	0.00	0.00	0.00	0.00
95200	4480	Contract Costs	0.00	1.48	0.00	0.55
95300	4470	Materials	0.00	0.00	0.00	0.00
95500	4482	Employee Benefits	0.00	0.00	0.00	0.00
95000 Total		**Protective Services Expense**	0.00	1.48	0.00	0.55
Insurance Expense:						
96110	4510.02	Property Insurance	14.46	19.81	0.00	13.02
96120	4510.03	Liability Insurance	6.48	7.36	0.00	5.27

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
PUMs

Manual Input
Formula

of Months 12

REAC Line No.	HUD Acct. No.	Description	PUBLIC HOUSING 1692 AMP 1	1620 AMP 2	1032 AMP 3	4344 PH Project Totals
Revenues						
96130	4510.01	Workers' Comp Insurance	1.65	1.85	0.00	1.34
96140	4510.00	Other Insurance	2.36	2.47	0.00	1.84
96100 Total		**Insurance**	24.96	31.50	0.00	21.47
General Expense						
96200	4590	Other General Expenses	0.00	0.00	218.08	51.81
96210	4560	Compensated Absences	0.00	0.00	0.00	0.00
96300	4520	Payments in Lieu of Taxes	9.77	7.30	0.00	6.52
96400	4570	Collection Losses	0.00	0.00	0.00	0.00
96800	4530	Terminal Leave Payments	0.00	0.00	0.00	0.00
9600 Total		**General Expense**	9.77	7.30	218.08	58.33
96710		Interest expense - Mort or Bonds	0.00	0.00	0.00	0.00
96720		Interest expense - Notes	0.00	0.00	0.00	0.00
96730		Amortization of Bond Issue cost	0.00	0.00	0.00	0.00
96700 Total		**Total Interest Expense and Amortization Cost**	0.00	0.00	0.00	0.00
96900 Total		**Operating Expenditures**	339.29	325.99	256.59	314.68
Nonoperating Expenditures:						
97100	4610	Extraordinary Maintenance	0.00	0.00	0.00	0.00
97200	4620	Casualty Losses	0.00	0.00	0.00	0.00
		Debt Payments - Interest/Principal	0.00	0.00	0.00	0.00

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12

VACANCY LOSS & GROSS POTENTIAL INCOME

# of Units	141	135	86	
Description	Public Housing			TOTAL PUBLIC HOUSING
	AMP 1	AMP 2	AMP 3	
Budgeting				
Average Rental Income per Month	182.00	124.00	-	306.00
Units	1,692.00	1,620.00	1,032.00	4,344.00
Gross Potential Revenue	307,944.00	200,880.00	-	508,824.00
Occupancy Rate	90.00%	95.00%	100.00%	
Projected Average Monthly Dwelling Rental	277,149.60	190,836.00	-	467,985.60

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12

Funding allocation

# of Units	141	135	86	362
Description	Public Housing			TOTAL PUBLIC HOUSING
	AMP 1	AMP 2	AMP 3	
Budgeting				
Operating Subsidy	349,461.00	501,711.00	271,494.00	##########
Prorated Approved Subsidy percentage	100.00%	100.00%	100.00%	300.00%
Net Subsidy	349,461.00	501,711.00	271,494.00	##########

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Excess Utilities

Descripition	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Tenant Charges	-	500.00					**500.00**	
			-			-	-	
	-	-				-	-	
						-	-	
							-	
							-	
							-	
							-	
							-	
							-	check
Total	-	500.00	-	-	-	-	**500.00**	500.00

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Other Income

Description	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Tenant Charges	8,000.00	13,000.00	-				**21,000.00**	
Laundry Commissions	-	-	-				-	
Office Rent							-	
Other Income							-	
S8 Rent							-	
YMCA 700/month						8,400.00	**8,400.00**	
Community Room						4,000.00	**4,000.00**	
							-	
							-	
							-	
							-	check
Total	8,000.00	13,000.00	-	-	-	12,400.00	**33,400.00**	33,400.00

Description	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Nondwelling rent						-	-	
							-	
							-	
							-	
							-	
							-	
							-	check
Total	-	-	-	-	-	-	-	-

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12

Administrative Direct - Labor & Benefits

Labor

Employee	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Property Manager-AMP 1 Janice Williams	30,385.00					-	30,385.00	
Property Manager-AMP 2 Lavetta White		35,029.00				-	35,029.00	
Inspector/Inventory Clerk-WillieMae Reed	17,724.50	17,724.50					35,449.00	
HCV Assistant-Deborah Reed				17,472.00		-	17,472.00	
HCV Coordinator-Wendy Gunn				41,889.00			41,889.00	
Name				-			-	
Name				-			-	
Name						-	-	
Name						-	-	
Name						-	-	
Name						-	-	
Name				-			-	
Name				-			-	
Name				-			-	
Name				-			-	
Name								
Name				-			-	
Name				-			-	check
Total	48,109.50	52,753.50	-	59,361.00	-	-	160,224.00	160,224.00

Benefits

Employee	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Property Manager-AMP 1 Janice Williams	10,724.45						10,724.45	
Property Manager-AMP 2 Lavetta White		11,389.72	-				11,389.72	
Inspector/Inventory Clerk-WillieMae Reed	5,700.42	5,700.42					11,400.85	
HCV Assistant-Deborah Reed				1,336.61			1,336.61	
HCV Coordinator-Wendy Gunn				11,760.51			11,760.51	
Name							-	
Name							-	
Name								
Name								
Name								
Name								
Name							-	
Name							-	
Name								
Name								
Name								
Name								
Name							-	check
Total	16,424.88	17,090.14	-	13,097.12	-	-	46,612.14	46,612.14

	Annual Expense	Salary	Benefits: Retirement	Health Ins	FICA	Dental	Life		Total Benefits
Property Manager-AMP 1 Janice Williams	41,109.45	30,385.00	1,488.00	6,000.00	2,324.45	352.00	560.00	-	10,724.45
Property Manager-AMP 2 Lavetta White	46,418.72	35,029.00	1,715.00	6,000.00	2,679.72	352.00	643.00	-	11,389.72
Inspector/Inventory Clerk-WillieMae Reed	46,849.85	35,449.00	1,688.00	6,000.00	2,711.85	352.00	649.00		11,400.85
HCV Assistant-Deborah Reed	18,808.61	17,472.00			1,336.61	-	-		1,336.61
HCV Coordinator-Wendy Gunn	53,649.51	41,889.00	1,592.00	6,000.00	3,204.51	352.00	612.00	-	11,760.51
Name	-				-	-	-	-	-
Name	-				-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
Name	-	-	-	-	-	-	-	-	-
	206,836.14	160,224.00	6,483.00	24,000.00	12,257.14	1,408.00	2,464.00	-	46,612.14

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Central Office Cost Center

Accounting Fee	$	7.50
Asset Mgmt Fee	$	-

Budgeting

	AMP 1	AMP 2	AMP 3	Total	Voucher
Estimated Units Occupied per Month	126.90	128.25	72.00	327.15	-
Management Fee	52.81	52.81	46.00	151.62	-
Management Fee-Budgeted	80,419.07	81,274.59	39,744.00	201,437.66	-
Acctg Fee-Budgeted	11,421.00	11,542.50	-	22,963.50	-
Asset Mgt Fee-Budgeted	-	-	-	-	

Benton Harbor Housing Commission

Central Office Cost Center

Salary & Benefits			Salary	Benefits: Retirement	Health Ins	FICA	Dental	Life	Total Benefits
Executive Director	Juanita Gibbs	80,756.24	65,258.00	3,108.00	6,000.00	4,992.24	352.00	1,046.00	**15,498.24**
CFP Coord/Main Sup	Sheila Hill	56,135.29	43,494.00	2,302.00	6,000.00	3,327.29	352.00	660.00	**12,641.29**
Admin/Human Resource	So'Cy Ward	35,261.02	30,863.00	1,470.00		2,361.02		567.00	**4,398.02**
Cleaner	Calvin Seawood	10,433.44	9,692.00			741.44			**741.44**
		-				-			-
		-				-			-
		-				-			-
		-				-			-
		-				-			-
		-				-			-
		182,585.99	**149,307.00**						**33,278.99**

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Administration Expense Other Than Salary

Description	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Advertising & Marketing	500.00	500.00	-	-	-		**1,000.00**	
Legal	7,000.00	3,000.00				3,200.00	**13,200.00**	
Training/Convention**	2,000.00	2,000.00	-	-	-	2,000.00	**6,000.00**	
Travel**	1,000.00	1,000.00	-	-	-	1,000.00	**3,000.00**	
Accounting				6,000.00		11,000.00	**17,000.00**	
Auditing	4,000.00	4,000.00	-	2,500.00	-	500.00	**11,000.00**	
Office Rent	-						**-**	
Sundry:								
Consulting	-	-		-		-	**-**	
Dues and Subsicriptions**	-	-	-	-	-	-	**-**	
Collection Agency	-	-	-				**-**	
Office Uniforms	-	-	-	-	-	-	**-**	
Other Sundry	6,625.00	6,625.00	-	5,400.00	-	2,300.00	**20,950.00**	
							-	
							-	
Total Sundry	6,625.00	6,625.00	-	5,400.00	-	2,300.00	**20,950.00**	
Office Expenses:								
Admin Service Contracts**	6,625.00	6,625.00	-	-	-	2,300.00	**15,550.00**	
Printing and Postage	2,500.00	2,300.00				1,700.00	**6,500.00**	
Forms, Stationary, Office Supplies	3,000.00	1,700.00	-	9,000.00	-	2,700.00	**16,400.00**	
Computer Software	4,000.00	5,300.00					**9,300.00**	
Copier						4,300.00	**4,300.00**	
Telephone	5,500.00	11,600.00	-	1,300.00		7,000.00	**25,400.00**	
						6,000.00	**6,000.00**	
							-	
							-	
Total Office Expenses	21,625.00	27,525.00	-	10,300.00	-	24,000.00	**83,450.00**	check
Total Administration	42,750.00	44,650.00	-	24,200.00	-	44,000.00	**155,600.00**	155,600.00

Note: ** = See detail below

Training/Convention							
Per PHA	2,000.00	2,000.00	-	-	-	2,000.00	
Total	2,000.00	2,000.00	-	-	-	2,000.00	6,000.00
Travel/Meetings							
Per PHA	1,000.00	1,000.00	-	-	-	1,000.00	
	-			-			
Total	1,000.00	1,000.00	-	-	-	1,000.00	3,000.00
Other Sundry							
ADP	2,675.00	2,675.00	-	-	-	-	
National Credit Reporting	1,600.00	1,600.00					
Bank Fees	2,150.00	2,150.00					
Misc	200.00	200.00				2,300.00	
Total	6,625.00	6,625.00	-	-	-	2,300.00	15,550.00
Membership, Dues, & Fees							
	-	-	-	-	-	-	
Total	-	-	-	-	-	-	-

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Utilities

Description	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Water	17,100.00	11,900.00	-			1,800.00	30,800.00	
Electricity	54,400.00	37,400.00	-			31,300.00	123,100.00	
Gas	36,100.00	10,000.00	-			6,300.00	52,400.00	
Sewer	8,875.00	19,500.00	-			1,700.00	30,075.00	
Fuel							-	
Other Utilities:								
							-	
							-	
							-	
Total Other Util	-	-	-	-	-	-	-	check
Total	**116,475.00**	**78,800.00**	**-**	**-**	**-**	**41,100.00**	**236,375.00**	**236,375.00**

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12

Maintenance - Labor & Benefits

Labor

Employee	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
AMP 1-A. Stokes	31,384.00						**31,384.00**	
AMP 1-F. Thomas	30,117.00						**30,117.00**	
AMP 1&2-K. Haley	15,058.50	15,058.50					**30,117.00**	
AMP 2-E. Hines		30,117.00					**30,117.00**	
AMP 2-K. Green		30,117.00					**30,117.00**	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	check
Total	**76,559.50**	**75,292.50**	-	-	-	-	**151,852.00**	151,852.00

Benefits

Employee	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
AMP 1-A. Stokes	10,826.88						**10,826.88**	
AMP 1-F. Thomas	10,535.95						**10,535.95**	
AMP 1&2-K. Haley	5,159.48	5,159.48					**10,318.95**	
AMP 2-E. Hines		10,572.95					**10,572.95**	
AMP 2-K. Green		10,572.95					**10,572.95**	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	
Name							-	check
Total	**26,522.30**	**26,305.38**	-	-	-	-	**52,827.68**	52,827.68

check 52,827.68

	Expense	Salary	Benefits Retirement	Health Ins	FICA	Dental	Life			Total Benefits
AMP 1-A. Stokes	42,210.88	31,384.00	1,569.00	6,000.00	2,400.88	352.00	505.00		-	10,826.88
AMP 1-F. Thomas	40,652.95	30,117.00	1,434.00	6,000.00	2,303.95	352.00	446.00		-	10,535.95
AMP 1&2-K. Haley	40,435.95	30,117.00	1,434.00	6,000.00	2,303.95		581.00		-	10,318.95
AMP 2-E. Hines	40,689.95	30,117.00	1,434.00	6,000.00	2,303.95	352.00	483.00		-	10,572.95
AMP 2-K. Green	40,689.95	30,117.00	1,434.00	6,000.00	2,303.95	352.00	483.00		-	10,572.95
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Name	-	-	-	-	-				-	-
Total	204,679.68	**151,852.00**	7,305.00	30,000.00	11,616.68	1,408.00	2,498.00	-	-	52,827.68

204,679.68 check

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Maintenance Contract Cost

Description	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Garbage	9,600.00	2,700.00	-			2,500.00	**14,800.00**	
Heating & Cooling	1,500.00	1,500.00	-			-	**3,000.00**	
Snow Removal	750.00	350.00				1,000.00	**2,100.00**	
Elevator Maintenance	22,000.00		-				**22,000.00**	
Landscape & Grounds	3,000.00	3,000.00				600.00	**6,600.00**	
Unit Turnaround	9,000.00	18,000.00					**27,000.00**	
Electrical	1,000.00	2,000.00	-			-	**3,000.00**	
Plumbing	5,000.00	12,000.00	-				**17,000.00**	
Extermination	25,000.00	6,400.00	-				**31,400.00**	
Janitorial	-					200.00	**200.00**	
Routine Contract Costs	2,900.00	1,700.00	-	-	-	2,000.00	**6,600.00**	
Miscellaneous	1,500.00	1,500.00	-	-	-	-	**3,000.00**	
							-	
							-	
							-	
							-	
							-	
							-	
							-	
							-	
							-	check
Total	81,250.00	49,150.00	-	-	-	6,300.00	**136,700.00**	########

Routine Contract Costs:

Fire, Alarm & sec Sys	2,900.00	1,700.00				2,000.00		
Total	2,900.00	1,700.00	-	-	-	2,000.00	$	6,600.00

Miscellaneous

Miscellaneous	1,500.00	1,500.00	-	-	-	-		
	-							
Total	1,500.00	1,500.00	-	-	-	-	$	3,000.00

Benton Harbor Housing Commission
12 MONTHS ENDING 9/30/12
Insurance

Descripition	AMP 1	AMP 2	AMP 5&6	Voucher	Program 1	COCC	Total	
Property Insurance	24,466.00	32,100.00	-	1,500.00	-	2,900.00	**60,966.00**	
Liability Insurance	10,960.00	11,930.00				500.00	**23,390.00**	
Workers Comp	2,800.00	3,000.00	-	-	-	3,800.00	**9,600.00**	
Other Insurance	4,000.00	4,000.00	-	-	-	5,200.00	**13,200.00**	check
Total	42,226.00	51,030.00	-	1,500.00	-	12,400.00	**107,156.00**	107,156.00

Other Insurance								
Auto	4,000.00	4,000.00	-	-	-			
D&O Ins						5,200.00		
Total	4,000.00	4,000.00	-	-	-	5,200.00	$	**13,200.00**

2012 Capital Fund

Capital Fund Program (CFP) Amendment
To The Consolidated Annual Contributions Contract (form **HUD-53012**)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Whereas, (Public Housing Authority) Benton Harbor Housing Commission(MI010) (herein called the "PHA") and the United States of America, Secretary of Housing and Urban Development (herein called "HUD") entered into Consolidated Annual Contributions Contract(s) ACC(s) Numbers(s) C3028 dated 11/1/1972

Whereas, HUD has agreed to provide CFP assistance, upon execution of this Amendment, to the PHA in the amount to be specified below for the purpose of assisting the PHA in carrying out capital and management activities at existing public housing developments in order to ensure that such developments continue to be available to serve low-income families. HUD reserves the right to provide additional CFP assistance in this FY to the PHA. HUD will provide a revised ACC Amendment authorizing such additional amounts.

$ 412,960.00 for Fiscal Year 2012 to be referred to under Capital Fund Grant Number MI33P01050112
PHA Tax Identification Number (TIN):On File DUNS Number:On File

Whereas, HUD and the PHA are entering into the CFP Amendment Number 46

Now Therefore, the ACC(s) is (are) amended as follows:

1.The ACC(s) is (are) amended to provide CFP assistance in the amount specified above for capital and management activities of PHA developments. This amendment is a part of the ACC(s).

2. The capital and management activities shall be carried out in accordance with all HUD regulations and other requirements applicable to the Capital Fund Program.

3. (Check one)

a. For Non-qualified PHAs:

_____ (i) In accordance with the HUD regulations, the Annual PHA Plan has been adopted by the PHA and approved by HUD, and may be amended from time to time. The capital and management activities shall be carried out as described in the CFP Annual Statement/Performance and Evaluation Report (HUD-50075.1).

OR

X (ii) If the Annual PHA Plan has not been adopted by the PHA and approved by HUD, the PHA may use its CFP assistance under this contract for work items contained in its CFP-Five-Year Action Plan (HUD-50075.2), before the Annual PHA Plan is approved.

b. For Qualified PHAs:

_____(i) The CFP Annual Statement/Performance and Evaluation Report (HUD-50075.1) has been adopted by the PHA and verified by HUD. The capital and management activities shall be carried out as described therein.
OR

_____ (ii) If the CFP Annual Statement/Performance and Evaluation Report has not been adopted by the PHA and/or verified by HUD, the PHA may use its CFP assistance under this contract for work items contained in its approved CFP 5-Year Action Plan (HUD-50075.2), before the CFP Annual Statement/Performance and Evaluation Report is adopted by the PHA and verified by HUD.

For cases where HUD has approved a Capital Fund Financing Amendment to the ACC (CFF Amendment attached), HUD will deduct the payment for amortization scheduled payments from the grant immediately on the effective date of this CFP Amendment. The payment of CFP funds due per the amortization scheduled will be made directly to a designated trustee (Trustee Agreement attached) within 3 days of the due date.

Regardless of the selection above, the 24 month time period in which the PHA must obligate this CFP assistance pursuant to section 9(j)(1) of the United States Housing Act of 1937, as amended, (the "Act") and 48 month time period in which the PHA must expend this CFP assistance pursuant to section 9(j)(5) of the Act starts with the effective date of this CFP amendment (the date on which CFP assistance becomes available to the PHA for obligation). Any additional CFP assistance this FY will start with the same effective date.

4. Subject to the provisions of the ACC(s) and paragraph 3. and to assist in the capital and management activities, HUD agrees to disburse to the PHA or the designated trustee from time to time as needed up to the amount of the funding assistance specified herein.

5. The PHA shall continue to operate each development as low-income housing in compliance with the ACC(s), as amended, the Act and all HUD regulations for a period of twenty years after the last disbursement of CFP assistance for modernization activities for any public housing or portion thereof and for a period of forty years after the last distribution of CFP assistance for development activities for any public housing and for a period of ten years following the last payment of assistance from the Operating Fund to the PHA. However, the provisions of Section 7 of the ACC shall remain in effect for so long as HUD determines there is any outstanding indebtedness of the PHA to HUD which arose in connection with any development(s) under the ACC(s) and which is not eligible for forgiveness, and provided further that, no disposition of any development covered by this amendment shall occur unless approved by HUD.

6. The PHA will accept all CFP assistance provided for this FY. If the PHA does not comply with any of its obligations under this Amendment and does not have its Annual PHA Plan approved within the period specified by HUD, HUD shall impose such penalties or take such remedial action as provided by law. HUD may direct the PHA to terminate all work described in the Capital Fund Annual Statement of the Annual PHA Plan. In such case, the PHA shall only incur additional costs with HUD approval.

7. Implementation or use of funding assistance provided under this Amendment is subject to the attached corrective action order(s).

(mark one) : [X] Yes [ ] No

8. The PHA acknowledges its responsibility for adherence to this Amendment.

9. At a public housing development level and in the format and frequency established by HUD, the PHA is required to report on all Capital Fund grants awarded that have not closed, including information on the installation of energy conservation measures.

The parties have executed this Agreement, and it will be effective on March 12, 2012. This is the date on which CFP assistance becomes available to the PHA for obligation.

U.S. Department of Housing and Urban Development		**PHA Executive Director**	
By	Date: 3/8/12	By	Date: 3/5/12
Title: Director, Office of Public Housing		Title: Executive Director	

Previous versions obsolete

form **HUD-52840-A** 03/04/2003

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 8/31/2011

Part I: Summary

PHA Name: Benton Harbor Housing Commission	**Grant Type and Number** Capital Fund Program Grant No: MI33P01050112 Replacement Housing Factor Grant No: Date of CFFP: FY 2012	**FFY of Grant: FY2012** **FFY of Grant Approval: FY2012**

Type of Grant
X **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**
☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised[2]	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) [3]	41,296.00			
3	1408 Management Improvements	73,500.00			
4	1410 Administration (may not exceed 10% of line 21)	46,435.00			
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures	151,381.00			
11	1465.1 Dwelling Equipment—Nonexpendable	100,348.00			
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities [4]				

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 08/31/2011

Part I: Summary

PHA Name: Benton Harbor Housing Commission	**Grant Type and Number** Capital Fund Program Grant No: MI33P01050112 Replacement Housing Factor Grant No: Date of CFFP: FY 2012	**FFY of Grant:** FY 2012 **FFY of Grant Approval:** FY 2012

Type of Grant

X **Original Annual Statement** ☐ **Reserve for Disasters/Emergencies** ☐ **Revised Annual Statement (revision no:)**

☐ **Performance and Evaluation Report for Period Ending:** ☐ **Final Performance and Evaluation Report**

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost [1]	
		Original	Revised [2]	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)	412,960.00			
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs	60,000.00			
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				

Signature of Executive Director	**Date**	**Signature of Public Housing Director**	**Date**
	3/5/12		3/8/12

[1] To be completed for the Performance and Evaluation Report.
[2] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[3] PHAs with under 250 units in management may use 100% of CFP Grants for operations.
[4] RHF funds shall be included here.

Part II: Supporting Pages

PHA Name: **Benton Harbor Housing Commission**	**Grant Type and Number** Capital Fund Program Grant No: MI33P01050112 CFFP (Yes/ No): Replacement Housing Factor Grant No: FY 2012	**Federal FFY of Grant:** FY 2012

Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised [1]	Funds Obligated[2]	Funds Expended[2]	
M1010 AMP # 1	A. Housing Operations	1406	LS	28,500.00				
M1010 AMP # 2	B. Housing Operations	1406	LS	28,500.00				
	Sub Total			**57,000.00**				
M1010 AMP # 1and 2	A. Resident Services	1408	LS	7,500.00				
	B. Commissioner Training	1408	4	3,000.00				
	C. Staff Training	1408	11	3,000.00				
	D. Security	1408	LS	60,000.00				
	Sub Total			**73,500.00**				
Admin Cost	A. CFP Coordinator	1410		26,140.00				
	Sub Total			**26,140.00**				
M1010 AMP # 1	Exterior Up Grade	1460	LS	21,000.00				
M1010 AMP # 2	Exterior Up Grade	1460	LS	90,000.00				
M1010 AMP # 1	Landscape/Tree Removal	1460	LS	30,000.00				
M1010 AMP # 2	Landscape/Tree Removal	1460	LS	30,000.00				
	Sub Total			**171,000.00**				
M1010 AMP # 1	Replace Appliances	1465	LS	17,100.00				
M1010 AMP # 2	Replace Appliances	1465	LS	68,220.00				
	Sub Total			**85,320.00**				

[1] To be completed for the Performance and Evaluation Report or a Revised Annual Statement.
[2] To be completed for the Performance and Evaluation Report.

Part III: Implementation Schedule for Capital Fund Financing Program

PHA Name: **Benton Harbor Housing Commission** | **Federal FFY of Grant:** FY 2012

Development Number Name/PHA-Wide Activities	All Fund Obligated (Quarter Ending Date)		All Funds Expended (Quarter Ending Date)		Reasons for Revised Target Dates [1]
	Original Obligation End Date	Actual Obligation End Date	Original Expenditure End Date	Actual Expenditure End Date	
M1010	08/03/2012		08/03/2014		

[1] Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Membership of the Resident Advisory Board or Boards

Benton Harbor Housing Commission Annual Plan Update 2012

List members of the Resident Advisory Board or Boards: (If the list would be unreasonably long, list organizations represented or otherwise provide a description sufficient to identify how members are chosen.)

According to the regulations 24 CFR 903.13, if a jurisdiction-wide resident council exist that compiles with the tenant participation regulations in Part 964, the PHA shall appoint the jurisdiction-wide resident council or the council's representative as the Resident Advisory Board.

The BHHC Resident Council will serve as the Resident Advisory Board.

Benton Harbor Housing Commission Resident Advisory Board.

Jocelyn Haynes - President
Chasity Evans - Vice -President
Chris Bridges - Secretary
Diata Johnson - Treasurer
Bershele Jenkins - Sgt.-at-Arms

BHHC Statement:
No comments were received from the RAB. No challenged elements were received from the RAB.