January 24, 2017

Board of Commissioners
Housing Authority of the County of Marin
Marin Civic Center
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Conduct a Public Hearing and approve revisions to the Administrative Plan governing the Housing Choice Voucher Program for submittal to the U.S. Department of Housing and Urban Development.

RECOMMENDATION: Approve proposed revisions to the Administrative Plan.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) requires each Housing Authority to develop and approve an Administrative Plan ("Admin Plan") to govern the Housing Choice Voucher program.

MHA has proposed amendments to chapters; 3, 4, 5, 11, 16 and 18 of the Admin Plan (Matrix of changes attached). These amendments, among other things, make policies and processes clearer for our applicants, participants and staff members. Due to the nature of these proposed amendments, a public comment period was required. The proposed revised Admin Plan has been available at MHA’s office as well as online since December 1, 2016. An article was posted in the Marin IJ informing the public of the hearing where comments could be made.

The proposed amendments are attached.

FISCAL IMPACT: In changing the policy on processing interims for increases in income, we expect HAP expenses to decrease.

Sincerely,

Lewis A. Jordan
Executive Director

Attachment

Housing Authority of The County of Marin
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(FAX) 415/472-2186
(TDD) 1-800-735-2929
www.marinhousing.org
Administrative Plan

Housing Choice Voucher Program

Effective Date:

2/1/2017

Previous versions obsolete
Table of Contents

CHAPTER 1 - OVERVIEW OF THE PROGRAM AND PLAN ......................................................... 15

PART I: MARIN HOUSING AUTHORITY .................................................................................. 16

1-I.A. OVERVIEW .................................................................................................................. 16
1-I.B. ORGANIZATION AND STRUCTURE OF MHA ......................................................... 16
1-I.C. MHA MISSION .............................................................................................................. 16
1-I.D. MHA’S PROGRAMS .................................................................................................... 16
1-I.E. MHA’S COMMITMENT TO ETHICS AND SERVICE ............................................... 17

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM ......................................... 18

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM ....................................................... 18
1-II.B. HCV PROGRAM BASICS .......................................................................................... 19
1-II.C. THE HCV PARTNERSHIPS ....................................................................................... 19
1-II.D. APPLICABLE REGULATIONS .................................................................................... 22

PART III: THE HCV ADMINISTRATIVE PLAN ..................................................................... 23

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN .......................................................... 23
1-III.C. ORGANIZATION OF THE PLAN ............................................................................ 25
1-III.D. UPDATING AND REVISI NG THE PLAN .......................................................... 25

CHAPTER 2 - FAIR HOUSING AND EQUAL OPPORTUNITY ............................................... 26

PART I: NONDISCRIMINATION ............................................................................................. 27

2-I.A. OVERVIEW .................................................................................................................. 27
2-I.B. NONDISCRIMINATION ............................................................................................... 27

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES ........................................ 29

2-II.A. OVERVIEW ................................................................................................................ 29
2-II.B. DEFINITION OF REASONABLE ACCOMMODATION ........................................ 29
2-II.C. REQUEST FOR AN ACCOMMODATION ................................................................ 30
2-II.D. VERIFICATION OF DISABILITY .............................................................................. 30
2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION ............................. 31
2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS .................................................................................................................. 31
2-II.G. PHYSICAL ACCESSIBILITY ..................................................................................... 32
2-II.H. DENIAL OR TERMINATION OF ASSISTANCE ................................................... 33

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP) ................................................................. 34

2-III.A. OVERVIEW .............................................................................................................. 34
CHAPTER 3 - ELIGIBILITY .................................................................................................................. 37

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS .............................................. 38
3-I.A. OVERVIEW .......................................................................................................................... 38
3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), FR Notice 02/03/12; Notice PIH 2014-20] ............................................................................................................................................................................. 38
3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY ................. 38
3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)] .................................................................... 39
3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT ..................................................................... 39
3-I.F. DEPENDENT [24 CFR 5.603] .......................................................................................... 40
3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29] ............................................. 40
3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY ...................... 40
3-I.J. GUESTS [24 CFR 5.100] ................................................................................................... 41
3-I.K. FOSTER CHILDREN AND FOSTER ADULTS ................................................................. 41
3-I.L. ABSENT FAMILY MEMBERS ......................................................................................... 42
3-I.M. LIVE-IN AIDE .................................................................................................................. 43

PART II: BASIC ELIGIBILITY CRITERIA ....................................................................................... 45
3-II.A. INCOME ELIGIBILITY AND TARGETING .................................................................... 45
3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]........ 46
3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218] ......................................... 48
3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13] .................................................................................................................................................................................. 48
3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06] ........................................................................................................................................................................... 48

PART III: DENIAL OF ASSISTANCE ............................................................................................. 52
3-III.A. OVERVIEW ..................................................................................................................... 52
3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)] ............................. 52
3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE ......................... 53
3-III.D. SCREENING ................................................................................................................. 55
3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE .................................................. 56
3-III.F. NOTICE OF ELIGIBILITY OR DENIAL ...................................................................... 58
7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12] .......................... 148
7-II.C. DOCUMENTATION OF AGE .................................................................................. 149
7-II.D. FAMILY RELATIONSHIPS ...................................................................................... 149
7-II.E. VERIFICATION OF STUDENT STATUS .................................................................. 151
7-II.F. DOCUMENTATION OF DISABILITY ................................................................. 152
7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508] ............ 153
7-II.H. VERIFICATION OF PREFERENCE STATUS ......................................................... 154

PART III: VERIFYING INCOME AND ASSETS ................................................................. 155
7-III.A. EARNED INCOME ............................................................................................... 155
7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME ............................................. 155
7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS .................... 156
7-III.D. ALIMONY OR CHILD SUPPORT ...................................................................... 156
7-III.Da. GENERAL ASSISTANCE .................................................................................. 157
7-III.E. ASSETS AND INCOME FROM ASSETS ............................................................. 157
7-III.F. NET INCOME FROM RENTAL PROPERTY ....................................................... 158
7-III.G. RETIREMENT ACCOUNTS .................................................................................. 158
7-III.H. INCOME FROM EXCLUDED SOURCES ......................................................... 158
7-III.I. ZERO ANNUAL INCOME STATUS ..................................................................... 159
7-III.J. STUDENT FINANCIAL ASSISTANCE ............................................................... 159
7-III.K. Parental income of student’s subject to eligibility restrictions ....................... 159

PART IV: MANDATORY DEDUCTIONS ......................................................................... 161
7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS .......... 161
7-IV.B. MEDICAL EXPENSE DEDUCTION — .............................................................. 161
7-IV.C. DISABILITY ASSISTANCE EXPENSES ........................................................ 162
7-IV.D. CHILD CARE EXPENSES ................................................................................ 164

CHAPTER 8 - HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
determinations .............................................................................................................. 172

PART I: PHYSICAL STANDARDS ..................................................................................... 173
8-I.A. GENERAL HUD REQUIREMENTS ...................................................................... 173
8-I.B. ADDITIONAL LOCAL REQUIREMENTS ............................................................ 174
8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)] ............................. 175
8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404] ......................... 175
8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL
INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225] ........................................ 176

PART II: THE INSPECTION PROCESS .......................................................................... 177
12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005 (c), and Form HUD-52641-A, Tenancy Addendum] ........................................................................................................242
12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum] ........................................................................................................243
12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)] ........................................................................................................243
12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY’S ASSISTANCE ........244

CHAPTER 13 - OWNERS ........................................................................................................248

PART I. OWNERS IN THE HCV PROGRAM ........................................................................249
13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6] ............249
13-I.B. BASIC HCV PROGRAM REQUIREMENTS ..........................................................250
13-I.D. OWNER QUALIFICATIONS ..................................................................................252
13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641] .........................255

PART II. HAP CONTRACTS ..................................................................................................256
13-II.A. OVERVIEW .........................................................................................................25656
13-II.B. HAP CONTRACT CONTENTS .............................................................................256
13-II.C. HAP CONTRACT PAYMENTS ...........................................................................257
13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453] ...........................................25959
13-II.E. HAP CONTRACT TERM AND TERMINATIONS ..............................................26060
13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641] .................................................................261

CHAPTER 14 - PROGRAM INTEGRITY ................................................................................263

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE ..................................................................................................................264
14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE .............................................264
14-I.B. DETECTING ERRORS AND PROGRAM ABUSE ...............................................265
14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE ........................................265

PART II: CORRECTIVE MEASURES AND PENALTIES ....................................................268
14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS .........................................................268
14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE .....................................268
14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE ..........................................270
14-II.D. MHA-CAUSED ERRORS OR PROGRAM ABUSE ...........................................271
14-II.E. CRIMINAL PROSECUTION ..............................................................................272
14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES .............................................272

CHAPTER 15 - SPECIAL HOUSING TYPES .......................................................................273
PART VII: HOMEOWNERSHIP ................................................................. 274
  15-I.A. OVERVIEW .............................................................................. 274
  15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION .... 274
  15-I.C. HOUSING QUALITY STANDARDS (HQS) ....................................... 274
PART II: CONGREGATE HOUSING .......................................................... 275
  15-II.A. OVERVIEW ............................................................................. 275
  15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION .... 275
  15-II.C. HOUSING QUALITY STANDARDS ............................................... 275
PART III: GROUP HOME ........................................................................... 276
  15-III.A. OVERVIEW .......................................................................... 276
  15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION .... 276
  15-III.C. HOUSING QUALITY STANDARDS ............................................. 276
PART IV: SHARED HOUSING .................................................................... 278
  15-IV.A. OVERVIEW ........................................................................... 278
  15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION .... 278
  15-IV.C. HOUSING QUALITY STANDARDS ............................................. 278
PART V: COOPERATIVE HOUSING ............................................................ 279
  15-V.A. OVERVIEW ............................................................................. 279
  15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION .... 279
  15-V.C. HOUSING QUALITY STANDARDS ............................................. 279
PART VI: MANUFACTURED HOMES .......................................................... 280
  15-VI.A. OVERVIEW ........................................................................... 280
  15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE ................................................................. 280
  15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION .... 280
  15-VI.D. HOUSING QUALITY STANDARDS ............................................. 281
PART VII: HOMEOWNERSHIP .................................................................. 282
  15-VII.A. OVERVIEW [24 CFR 982.625] ...................................................... 282
  15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627] ..................................... 282
  15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626] ............................. 283
  15-VII.D. ELIGIBLE UNITS [24 CFR 982.628] .......................................... 283
  15-VII.E. ADDITIONAL MHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629] ................................................................. 284
  15.-VII.G. APPROVAL FOR PARTICIPATION ............................................ 285
CHAPTER 16 - PROGRAM ADMINISTRATION ................................................................. 292

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]........................................... 293

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES ........................................ 294

16-II.A. OVERVIEW .................................................................................................................. 294
16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7] ....................... 294
16-II.C. UTILITY ALLOWANCES [24 CFR 982.517] .......................................................... 296

PART III: INFORMAL REVIEWS AND HEARINGS ............................................................ 298

16-III.A. OVERVIEW ............................................................................................................... 298
16-III.B. INFORMAL REVIEWS ............................................................................................. 298
16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555] ......................... 30000

PART IV: OWNER OR FAMILY DEBTS TO MHA .............................................................. 310

16-IV.A. OVERVIEW .............................................................................................................. 310
16-IV.B. REPAYMENT POLICY ............................................................................................. 310

PART V: MANAGEMENT ASSESSMENT (SEMAP) ............................................................ 313

16-V.A. OVERVIEW .................................................................................................................. 313
16-V.B. SEMAP CERTIFICATION [24 CFR 985.101] ............................................................ 313
16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648] ................................. 314

PART VI: RECORD KEEPING ............................................................................................... 318

16-VI.A. OVERVIEW ............................................................................................................... 318
16-VI.B. RECORD RETENTION [24 CFR 982.158] ............................................................... 318
16-VI.C. RECORDS MANAGEMENT ...................................................................................... 318
16-VII.A. OVERVIEW .............................................................................................................. 320
16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)] ............................................. 320
16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)] .................. 320

Marin Housing Authority HCV Administrative Plan
CHAPTER 17 - PROJECT-BASED VOUCHERS ................................................................. 332

PART I: GENERAL REQUIREMENTS ............................................................................. 333
17-I.A. OVERVIEW [24 CFR 983.5] ........................................................................ 333
17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8] ....................... 334

PART II: PBV OWNER PROPOSALS ............................................................................. 335
17-II.A. OVERVIEW ..................................................................................................... 335
17-II.C. HOUSING TYPE [24 CFR 983.52] ............................................................... 338
17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS ....................... 338
17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT ........................... 340
17-II.G. SITE SELECTION STANDARDS ................................................................. Error! Bookmark not defined.

PART III: DWELLING UNITS ......................................................................................... 344
17-III.A. OVERVIEW .................................................................................................. 344
17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES ............. 344
17-III.D. INSPECTING UNITS .................................................................................. 344

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS ............................. 345
17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT .................................... 346
17-IV.C. CONDUCT OF DEVELOPMENT WORK ..................................................... 347
17-IV.D. COMPLETION OF HOUSING ................................................................. 347

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP) ....................... 349
17-V.A. OVERVIEW .................................................................................................. 349
CHAPTER 18
PART I: PARTNERING AGENCIES

17-V.B. HAP CONTRACT REQUIREMENTS .................................................................................. 349
17-V.C. AMENDMENTS TO THE HAP CONTRACT ................................................................. 351
17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)] ................................................................. 352
17-V.F. ADDITIONAL HAP REQUIREMENTS ........................................................................... 353
PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS ....................................................... 354
17-VI.A. OVERVIEW .............................................................................................................. 354
17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)] ....................... 354
17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)] .......................... 354
17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)] ............................. 355
17-VI.E. OFFER OF PBV ASSISTANCE .................................................................................. 356
17-VI.F. OWNER SELECTION OF TENANTS ........................................................................... 356
17-VI.G. TENANT SCREENING [24 CFR 983.255] ................................................................. 357
PART VII: OCCUPANCY ......................................................................................................... 359
17-VII.A. OVERVIEW ............................................................................................................ 359
17-VII.B. LEASE [24 CFR 983.256] ..................................................................................... 359
17-VII.C. MOVES ................................................................................................................ 361
PART VIII: DETERMINING RENT TO OWNER ..................................................................... 364
17-VIII.A. OVERVIEW .......................................................................................................... 364
17-VIII.B. RENT LIMITS [24 CFR 983.301] ........................................................................ 364
17-VIII.C. REASONABLE RENT [24 CFR 983.303] ............................................................. 367
17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL .......................................... 367
PART IX: PAYMENTS TO OWNER ....................................................................................... 369
17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351] ...................................... 369
17-IX.B. VACANCY PAYMENTS [24 CFR 983.352] ............................................................ 369
17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353] ..................................................... 370
CHAPTER 18 - FAMILY SELF-SUFFICIENCY PROGRAM ......................................................... 372
PART I: PURPOSE ................................................................................................................ 372
18-I.A. PARTICIPANT SELECTION 24 CFR 984.201(d)(1) .................................................. 372
18-I.B. NEEDS ASSESSMENTS FOR THE PROGRAM PARTICIPANTS 24 CFR 984.201 (d)(8) .................................................................................................................... 375
18-I.C. CASE MANAGEMENT ............................................................................................... 376
18-I.D. PARTNERING AGENCIES ........................................................................................ 376
18-I.E. INCENTIVES TO ENCOURAGE PARTICIPANTS 24 CFR 984.201(d)(5) ............... 377
18-I.F. PROGRAM COORDINATING COMMITTEE 24 CFR 984.202 ........................................ 377
18-I.G. CONTRACT OF PARTICIPATION 24 CFR 984.303 .................................................. 377
18-I.H. TERMINATION OF THE CONTRACT OF PARTICIPATION 24 CFR 984.303 (2)(h) .. 378
18-I.I. HEARING .................................................................................................................. 379
18-I.J. ESCROW ACCOUNTS 24 CFR 984.305 ................................................................. 379
18-I.K. PORTABILITY OF ASSISTANCE 24 CFR 984.306 ........................................... 380
18-I.L. REPORTS 24 CFR 984.401 ................................................................................... 381

CHAPTER 19 GLOSSARY ..................................................................................................... 382

A. ACRONYMS USED IN SUBSIDIZED HOUSING ......................................................... 382
B. GLOSSARY OF SUBSIDIZED HOUSING TERMS ...................................................... 384
CHAPTER 1 - OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

MHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. MHA is not a federal department or agency. A public housing agency (MHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. MHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. MHA 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 MHA 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 (MHA). This part includes a description of MHA, its jurisdiction, its programs, and its mission and intent.

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

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

1-I.A. OVERVIEW
This part explains the origin of MHA’s creation and authorization, the general structure of the organization, and the relationship between MHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF MHA
The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by The Housing Authority of the County of Marin (MHA) for the jurisdiction of Marin County.

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

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

The principal staff member of MHA 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 MHA’s staff in order to manage the day-to-day operations of MHA 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. MHA MISSION
The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

MHA Policy
MHA’s mission is assist low- and moderate- income residents of Marin to secure and maintain high quality affordable housing.

1-I.D. MHA’S PROGRAMS
The following programs are included under this administrative plan:

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

- Shelter Plus Care
- Family Self-Sufficiency
- Homeownership
- Shared Housing
Cooperative housing (excluding families that are not cooperative members)
- Group homes
- Congregate housing
- Single room occupancy (SRO)

1-I-E. MHA’S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, MHA is committed to providing excellent service to HCV program participants – families and owners – in the community. MHA’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 service's 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 MHA’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 MHA’s support systems and commitment to our employees and their development.

MHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.
PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

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

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

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

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

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

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.
The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

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

1-II.B. HCV PROGRAM BASICS

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

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

When a family is determined to be eligible for the program and funding is available, MHA issues the families a housing voucher. When the family finds a suitable housing unit and funding is available, MHA 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. MHA 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, MHA enters into a contractual relationship with HUD. MHA 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, MHA, 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:

Congress Appropriates Funding

HUD Provides Funding To MHA

Program Regulations and ACC specifies MHA Obligations and Voucher Funding

MHA Administers Program

Voucher specifies Family Obligations

Family (Program Participant)

Housing Assistance Payments (HAP) Contract specifies Owner and MHA Obligations

Owner / Landlord

Lease specifies Tenant and Landlord Obligations
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 MHAs;
- Provide technical assistance to MHAs on interpreting and applying HCV program requirements;
- Monitor MHA compliance with HCV program requirements and MHA performance in program administration.

What does MHA do?

MHA 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, MHA’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.
  - MHA 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 MHA;
- 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 MHA with complete and accurate information, determined by MHA 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 MHA;
- Allow MHA 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 MHA 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 MHA 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 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
PART III: THE HCV ADMINISTRATIVE PLAN

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

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

This administrative plan is set forth to define MHA'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.

MHA 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 MHA staff shall be in compliance with MHA'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. MHA administrative plan must cover MHA policies on these subjects:

- Selection and admission of applicants from MHA waiting list, including any MHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening MHA waiting list (Chapter 4);
- Issuing or denying vouchers, including MHA policy governing the voucher term and any extensions of the voucher term. If MHA decides to allow extensions of the voucher term, MHA administrative plan must describe how MHA determines whether to grant extensions, and how MHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to MHA 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 MHA of amounts the family owes MHA (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
MHA 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 MHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies MHA has adopted. MHA's administrative plan is the foundation of those policies and procedures. HUD’s directions require MHAs 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 MHA with a “safe harbor.” HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a MHA 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 MHAs 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

MHA 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.

MHA Policy

MHA will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, MHA 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 MHA s 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 MHA housing choice voucher (HCV) operations.

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

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of MHA 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 MHA 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 MHA s 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. MHA 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 Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2005 (VAWA)

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

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

2-I.B. NONDISCRIMINATION

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

MHA 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.

MHA Policy

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

MHA 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

MHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, MHA 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 MHA or an owner, the family should advise the MHA. HUD requires MHA 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, MHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

MHA Policy

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

MHA will attempt to remedy discrimination complaints made against the MHA.

MHA 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).
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.

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

**MHA Policy**

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

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

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations MHA 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 MHA, 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, MHA 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 MHA range) if MHA 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 MHA staff
- Displaying posters and other housing information in locations throughout the MHA 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 MHA 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 MHA programs and services.

If the need for the accommodation is not readily apparent or known to MHA, 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.

MHA Policy

MHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, MHA 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, MHA 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 MHA programs and services.

If a person’s disability is obvious or otherwise known to MHA, 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 MHA, MHA 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, MHA 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]

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

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

- In the event that the PHA does receive confidential 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 [Notice PIH 2010-26].

2-IIE. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION
[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 201-26].

MHA 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 MHA, or fundamentally alter the nature of MHA 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 MHA 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, MHA 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 MHA may verify the need for the requested accommodation.

MHA Policy

After a request for an accommodation is presented, MHA will respond, in writing, within 15 calendar days.

If MHA 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 MHA operations), MHA 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 MHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, MHA will notify the family, in writing, of its determination within 15 calendar days from the date of the most recent discussion or communication with the family.

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

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

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

PHA 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 MHA 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

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

- PIH 2010-26(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 MHA 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 MHA responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- MHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of MHA 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, MHA will include a current list of available accessible units known to MHA 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-Il.H. DENIAL OR TERMINATION OF ASSISTANCE

A MHA 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 MHA 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 MHA informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, MHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the MHA decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, MHA must make the accommodation.
PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

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

MHA 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, MHA 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 MHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the MHA.

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, MHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

MHA Policy

MHA 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, MHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHA’s, and will standardize documents. Where feasible and possible, MHA will encourage the use of qualified community volunteers.

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

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

MHA 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, MHA 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, MHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If MHA 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 MHA Housing Choice Voucher program and services.

MHA Policy

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

MHA has bilingual staff to assist non-English speaking families in the following languages; Spanish, Vietnamese and Russian- and has translated documents in Spanish and English.
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 MHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

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

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

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

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.
CHAPTER 3 - ELIGIBILITY

INTRODUCTION
MHA 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 MHA 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 MHA.
  - 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 MHA’s collection and use of family information as provided for in MHA-provided consent forms.

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

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and MHA’s 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 MHA to deny assistance.
PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), FR Notice 02/03/12; Notice PIH 2014-20]
The terms *family* and *household* have different meanings in the HCV program.

**Family**
To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. MHA 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.

**MHA 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.

When the family is housed from the waiting list at least one member from the initial application must be a part of the household. This may include any updates made to the application due to child birth, adoption, or court awarded custody.

**Household**
*Household* is a broader term that includes additional people who, with MHA 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]**
MHA 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, MHA is bound by the court's determination of which family members continue to receive assistance.

**MHA Policy**
When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.
If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, MHA 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 co-head or spouse.

**MHA 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, CO-HEAD, AND OTHER ADULT**
A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13]. *Spouse* means the marriage partner of the head of household.

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

**MHA Policy**

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

*Other adult* means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.
3-I.F. DEPENDENT [24 CFR 5.603]
A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents
MHA Policy

Dependants 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, MHA 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 co-head, qualifies the family for a dependent deduction, and (2) the income of such an FTS is treated differently from the income of other family members.

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

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

Near-Elderly Persons
A near-elderly person is a person who is 50-61 years of age.

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

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

Persons with Disabilities
Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.
As discussed in Chapter 2, MHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person’s disability.

**Disabled Family**

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

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent MHA 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.

**MHA 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 twelve-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; HUD-50058 IB, p. 13].

**MHA 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

MHA 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

MHA 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 MHA 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.

MHA Policy

If a child has been placed in foster care, MHA 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 continue to be counted as a family member.

NOTE: For the first 12-months that a child is absent from the house due to being placed in foster care, MHA will count the child as temporarily away, this period will not exceed 12-months. If longer period is required MHA will need written recommendation from the appropriate agency (examples dependency attorney, social service agency or participant family court records) and from the HCV Program Manager, this extended period of time shall not be greater than 18 months to be considered as temporarily away. If the time period is to be greater than 18 months from the date of the removal of the child/ren, the voucher size will be reduced to the appropriate size for the remaining family members. If any children are removed from the home permanently (less than 51% custody), the voucher size will be reduced in accordance with MHA’s subsidy standards.

Absent Head, Spouse, or Co-head

MHA Policy

An employed head, spouse, or co-head 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].

MHA Policy

MHA 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

MHA Policy

The family must request MHA approval for the return of any adult family members that MHA 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].

MHA 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.

MHA Policy

A family’s request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request, subject to MHA 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.
MHA 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 MHA or to another MHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 15 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, MHA 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 the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

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

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD’s published income limits. To be income-eligible, 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]

  **MHA Policy**

  MHA 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 MHA.

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

MHA 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 MHA's program during a MHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if MHA 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 MHA’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 MHA to request additional documentation of their status, such as a passport.

MHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless MHA 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 MHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person’s age, and the date on which the family began receiving HUD-funded assistance.

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

**Ineligible Noncitizens**

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. MHA 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)]**

MHA 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 MHA 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 MHA in accordance with program requirements [24 CFR 5.512(a)].

**MHA Policy**

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

When a MHA 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 15 calendar 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 MHA. The informal hearing with MHA 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, MHA 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, MHA 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.

**MHA Policy**

MHA 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]**

The applicant and all members of the applicant’s household members, including persons under age 6 as per 24 CFR 5.216, must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. 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.

MHA 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.

MHA 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, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student’s eligibility must be examined along with the income eligibility of the student’s parents. In these cases, both the student and the student’s parents must be income eligible for
the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with MHA 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, MHA 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**

**MHA Policy**

MHA 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 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.

MHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.
**Institution of Higher Education**

MHA 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**

*MHA 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.).

**Person with Disabilities**

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

**Veteran**

*MHA 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, MHA 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, MHA 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.

*MHA Policy*

For any student who is subject to the 5.612 restrictions, MHA 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 MHA determines that the student, the student’s parents (if applicable), or the student’s “family” is not eligible, MHA 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

MHA 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, MHA will determine the income eligibility of the student’s parents as follows:

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

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

If the student’s parents are divorced or separated, MHA 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, MHA 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. MHA 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, MHA 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 MHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]
Denial of assistance includes any of the following:
- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

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 MHA'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 MHA 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, MHA to admit an otherwise-eligible family if the household member has completed a MHA-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).

MHA Policy
MHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if MHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by MHA, or the person who committed the crime, is no longer living in the household.
• MHA determines that any household member is currently engaged in the use of illegal drugs.

  **MHA Policy**

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

• MHA 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.

  **MHA Policy**

  In determining reasonable cause, MHA 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. MHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

  Pattern has been established with two or more incidents have occurred within the previous twelve months

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

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

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

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

**Criminal Activity [24 CFR 982.553]**

HUD permits, but does not require, MHA to deny assistance if MHA 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.

  **MHA 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 has any of the following elements, including, but not limited to fraud, embezzlement, stalking, perjury and larceny.

  *Felonious criminal* activity refers to any activity that is classify as a felony under Federal, State and/or Local laws.

  *Criminal sexual conduct* including but not limited to sexual assault, incest, open and gross lewdness, or child abuse and/or child molestation.
A household member who is currently under supervised probation or parole will be denied assistance unless he/she will present evidence of full compliance with terms or arraignment.

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 MHA (including a MHA employee or a MHA contractor, subcontractor, or agent).

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

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

- Any conviction for drug-related or violent criminal activity within the past 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, MHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, MHA may, on a case-by-case basis, decide not to deny assistance.

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

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

**MHA Policy**

**MHA 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.

**MHA will** deny assistance to an applicant family if:

- The family does not provide information that MHA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to MHA.
- 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 MHA in connection with Section 8 or other public housing assistance under 1937 ACT, 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 MHA for amounts MHA 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 MHA, 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 MHA personnel.

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

**3-III.D. SCREENING**

**Screening for Eligibility**

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

**MHA Policy**

MHA will perform a criminal background check through local law enforcement for every adult household member. Criminal Background may include fingerprints card for each adult in the family.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, MHA may request a fingerprint card and will request information from the National Crime Information center (NCIC).

MHAs 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 MHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, MHA 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]

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

**MHA Policy**

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

**MHA Policy**

MHA 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. MHA 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)]**

**MHA Policy**

MHA 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 show 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 MHA 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).
MHA Policy

MHA 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

MHA 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 MHAs 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.

MHA 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 MHA request.

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

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

MHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, MHA will determine whether the behavior is related to the disability. If so, upon the family’s request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA 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, MHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If MHA 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.

**MHA Policy**

The family will be notified of a decision to deny assistance in writing within 15 calendar days of the determination.

If MHA 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 MHA 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)]. MHA 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)].

**MHA Policy**

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible MHA 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 15 calendar days to dispute the accuracy and relevance of the information. If the family does not contact MHA to dispute the information within that 10-day period, MHA 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 CFR Part 5, Subpart L]

The Violence against Women Reauthorization Act of 2005 (VAWA and HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying and applicant admission to the HCV program “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.”

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

MHA Policy

MHA 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 MHA’s policies. Therefore, if MHA makes a determination to deny admission to an applicant family, MHA will include in its notice of denial VAWA information described in section 16-IX of this plan and will request that an applicant wishing to claim protection under VAWA notify the PHA within 14 calendar days.

Documentation

Victim Documentation [24 CFR 5.2007]

MHA Policy

An applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, MHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX. D of this plan.

Perpetrator Documentation

MHA Policy

If the perpetrator of the abuse 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 assisted unit

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.
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 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 student’s 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 MHA with the information needed to determine the family’s eligibility. HUD requires MHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, MHA must select families from the waiting list in accordance with HUD requirements and MHA policies as stated in the administrative plan and the annual plan.

MHA 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 MHA 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 MHA 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 MHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and MHA 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 MHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how MHA’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 MHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide MHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that MHA 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 MHA’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 MHA’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, Notice PIH 2009-36]
Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits MHA 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 MHA. However, MHA must include Form HUD-90026, Supplement to Application for Federally Assisted Housing, as part of MHA’s application.

MHA Policy
Depending upon the length of time that applicants may need to wait to receive assistance, MHA 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, MHA 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 MHA’s office during normal business hours.
MHA may opt to only accept application via internet. When this occurs the PHA will arrange to have local resources available to assist those that require assistance.

Elderly or disable families may request that an application be sent to the family.

Completed applications must be returned to MHA by mail, by fax, or submitted in person during normal business hours or otherwise instructed on the application. Applications must be complete in order to be accepted by MHA for processing. If an application is incomplete, MHA 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]
MHA 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 MHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). MHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or MHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of MHA’s policies related to providing reasonable accommodations for people with disabilities.
Limited English Proficiency

MHAs 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 MHA’s policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

MHA must review each complete application received and make a preliminary assessment of the family’s eligibility. MHA 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, MHA 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

MHA Policy

If MHA 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, MHA will send written notification of the ineligibility determination within 15 calendar 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

MHA Policy

MHA will send written notification of the preliminary eligibility determination within 15 calendar 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 will be pulled from the waiting list by lottery within those preference points.
PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

MHA 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 MHA may structure its waiting list and how families must be treated if they apply for assistance from a MHA that administers more than one assisted housing program.

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

MHA’s HCV waiting list must be organized in such a manner to allow MHA 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 MHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such MHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

**MHA Policy**

MHA 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 MHA 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 MHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

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

**MHA Policy**

MHA will not merge the HCV waiting list with the waiting list for any other program MHA operates.
4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

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

**MHA Policy**

MHA 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 MHA has particular preferences or funding criteria that require a specific category of family, MHA 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 MHA 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.

**MHA Policy**

MHA 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.

MHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to: *See Attachment A*

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

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

Because HUD requires MHA to serve a specified percentage of extremely low income families (see Chapter 4, Part III), MHA 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].

MHA 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

MHA 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

  **MHA Policy**

  MHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in MHA’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**

  **MHA Policy**

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

  The family must complete a waiting list update form to request the addition of a new family member or other household member.

  MHA will only add the following household members to the application:

  - Child birth by current household member
  - Marriage or domestic partnership
  - Adoption or court awarded custody
  - Placement of foster child expected to last more than 180 days
  - Return of household member from active duty
  - Required Live in Aide Attendant
  - Reasonable accommodation provided for disabled family members

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

  HUD requires MHA 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 MHA request for information or updates because of the family member’s disability, MHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

  **MHA Policy**

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

  To update the waiting list, MHA 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 MHA 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 MHA not later than 14 calendar days from the date of MHA letter.

If the family fails to respond within 14 calendar days, the family will be removed from the waiting list and a formal letter of withdrawal will be sent. The family will be given 14 calendar days from the date of the letter to request an informal review regarding MHA’s decision.

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 14 calendar days to respond from the date the letter was re-sent.

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 MHA error, or to circumstances beyond the family’s control.

If the letter is not returned by the Post Office, the notice will be considered delivered by MHA.

**Removal from the Waiting List**

**MHA Policy**

If at any time an applicant family is on the waiting list, MHA 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 MHA has determined the family is not eligible for assistance, a notice will be sent to the family’s address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding MHA’s decision (see Chapter 16) [24 CFR 982.201(f)]. If a letter is returned by the Post Office, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If the letter is not returned by the Post Office, the notice will be considered delivered by MHA.
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 MHA 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.

MHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to MHA’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, MHA may admit families that are not on the waiting list, or without considering the family’s position on the waiting list. MHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a MHA funding for a specified category of families on the waiting list. MHA 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.

MHA Policy

MHA administers the following types of targeted funding:

- Veteran Assistance Supporting Housing (VASH)
- Family Unification Program
- Non-Elderly Disabled Vouchers

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

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

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

MHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits MHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with MHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.
LOCAL PREFERENCES

Local preferences will be used to select among applicants on the waiting list.

Local preferences will be given to applicants who are otherwise eligible and who, at the time information is verified, meet the definitions of the preferences described below. Applicants without local preferences will be placed at the end of the waiting list, after those with preference points, according to lottery determined sequence.

MHA has adopted the following Local Preferences for families, elderly, and disabled applicants only:

1. Involuntary Displacement: (20 points)

Families are considered to be involuntarily displaced if they are required to vacate their housing as a result of:

- Domestic Violence applicants are given this preference one of two ways:
  - For those currently on the waitlist: To qualify for this preference a victim must prove that he/she was displaced at the time of the domestic violence and that the involuntary displacement was the result of the domestic violence. Proof can be a police report or other legal document. If the family did not report to the police, but has seen or was assisted by an expert or medical professional such as a physician or physical/psychotherapist or a public or private facility giving shelter and/or counseling to such victims or a social service agency or a church, a written verification from that entity would be required. The involuntary displacement must have occurred no earlier than 12 months prior to the original wait list application date.
  
  - If they are declared either by The Center for Domestic Peace (formerly MAWS) or CalWorks. MHA has set aside a maximum of 15 vouchers per year for this preference for applicants who are in immediate need of vacating their housing due to imminent health and safety dangers from domestic violence. In order to receive this preference applicant must be referred either by the Center for Domestic Peace or CalWorks. According to the MOU between MHA the Center for Domestic Peace or CalWorks, proof of client participation in the programs, proof of involuntarily displacement, proof of documentation that the clients were survivors of domestic violence upon entry, as well as other eligibility criteria at the time of application for client consideration for these preference points. The Center for Domestic Peace or CalWorks will provide a minimum of three (3) months of supportive services. (See attachment D for complete MOU). This preference is available even when the waiting list is closed to other applicants.

- Natural Disaster declared by a local, state, or federal government entity (fire, flood, earthquake, etc.) documented from the American Red Cross. Written verification from the American Red Cross must be provided. MHA has set aside a maximum of 15 vouchers per year for this preference for applicants who are in immediate need of vacating their housing due to imminent health and safety dangers from a natural declared disaster. This preference is available even when the waiting list is closed to other applicants.
• Immanent Domain through any documented action by a local, state, or federal government entity related to code enforcement, public improvement or development. MHA has set aside a maximum of 5 vouchers per year for this preference for applicants who are in immediate need of vacating their housing due to imminent health and safety dangers from a government action. This preference is available even when the waiting list is closed to other applicants. Written verification from a code enforcement or public improvement agency must be provided.

State or Federal Witness Protection - Avoidance of reprisal/witness protection: Relocation is required because the applicant provided information regarding criminal activities to a law enforcement agency or testimony in a criminal proceeding, and based upon a threat assessment, a law enforcement agency or HUD recommends the relocation of the applicant to avoid or minimize risk of violence against the applicant as reprisal for providing such information. This preference may only be invoked by MHA if the following documentation is provided on a law enforcement agencies or HUD’s letterhead: documentation that, following a threat assessment conducted by the law enforcement agency or HUD, such organization recommends the relocation / re-housing of the household to avoid or minimize the threat of violence or reprisal to or against the household member(s) for providing such information. This includes situations in which the applicant and / or family member(s) are themselves the victims of such crimes and have provided information or testimony to a law enforcement agency or during a legal proceeding. This preference is available to anyone upon satisfaction of the conditions set forth herein, including but not limited to, residents of MHA’s public housing and even when the waiting list is closed to other applicants. MHA has set aside a maximum of 5 vouchers per year for this preference for applicants who are in need of witness protection / avoiding reprisal, unless otherwise authorized by the Executive Director. Eligibility, including background checks, will be confirmed for all members of the household pursuant to other sections of the Administrative Plan.

2. **Family, Elderly or Disabled Preference:** (8 points)

   a) Family Preference is available to one or more persons related by blood, marriage, adoption, or laws who will live together in the same dwelling, or two or more persons who live together and whose income and resources are available for use in meeting regular living expenses for the family.

   b) Elderly Preference is available when the head of household or spouse/co-head is aged 62 or older.

   c) Disabled Preference is available when either the head of household or spouse/co-head in the applicant’s household are considered disabled as defined in Marin Housing’s policy.

3. **Individuals or Families with Disabilities Who Have Successfully Participated in or Are A Current Participant in a Supportive Housing Program for Disabled Homeless Person(s):** (8 points)

   This preference is only available to individuals or families with disabilities who have successfully participated in or are a current participant in good standing in a supportive housing program for disabled homeless person(s). Persons receiving this preference who upon verification are found not to qualify for the preference as set forth below will lose the preference points and if they were admitted to the waiting list when only applications for this preference were being taken they will be removed from the waiting list. If the applicant was placed on the waiting list while
applications for all preferences were being accepted the applicant’s points will be adjusted and s/he will be placed back on the waiting list.

In order to qualify for this preference, the applicant must be able to supply the name and address of the supportive housing program. The applicant must attach the following documents to the application in order to qualify for this preference:

- A verification of homeless status and supportive housing participation.

Once the applicant is pulled from the waiting list and MHA begins processing the application MHA will contact the supportive housing provider to verify, by the submission of a completed MHA verification form for this preference and/or a letter with the equivalent information, that the program provides the following type of housing services. If the supportive housing program does not meet the criteria listed below the applicant is not eligible for the preference and his/her name will be withdrawn from the waiting list.

Additionally, MHA will require the submission of a completed MHA verification form for this preference by the supportive housing program.

It should be noted, for the purposes of this preference, that supportive housing is different from transitional housing or homeless shelter programs. Transitional housing and homeless shelter programs by definition have a time limit on the stay of the residents or tenants. While both transitional housing and homeless shelter programs may provide case management and other supportive services, they are not permanent housing. Supportive housing is permanent housing, i.e. no time limit on the tenancy of the resident.

The supportive housing program must be one that is safe and provide well-designed housing that is:

- Affordable to people coming out of homelessness, and
- Independent, with each tenant in his/her own apartment, holding his/her own lease, and responsible for paying his/her own rent, and
- Permanent, a tenant can stay as long as he/she pays his/her rent and complies with the terms of his/her lease.

MHA will contact the supportive housing provider to verify that the program provides the following supportive services. If the program does not meet the criteria listed below the applicant is not eligible for the preference.

Supportive services are provided by staff trained in working with people who are homeless and people with disabilities. The supportive services must be:

- Designed to maximize independence, and
- Flexible and responsive to tenant needs, and
- Available as and when needed, and
- Accessible where the tenant lives.

MHA will contact the supportive housing provider to verify that the applicant was homeless prior to entering the supportive housing program and that the person has a disability, as defined by HUD. If the program does not provide verification of homeless status and disability prior to entering the supportive housing program the applicant is not eligible for the preference and his/her name will be withdrawn from the waiting list.
To be classified as homeless, the applicant must have been a homeless person living in an emergency shelter, supportive housing for homeless persons, or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings and/or;

- Lack a fixed, regular and adequate nighttime residence,
- Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations,
- A public or private place not ordinarily used as an accommodation for human beings (lacks indoor plumbing, toilet facilities, bathing facilities, adequate or safe electrical service, heat, or kitchen).

MHA will contact the supportive housing provider to verify that the applicant is no longer in need of case management services in order to maintain an independent housing situation. If the program does not provide this verification the applicant is not eligible for the preference and his/her name will be withdrawn from the waiting list.

As set forth in Section C an above, no more than 25 pre-applications will be placed on the waiting list. Those 25 pre-applications will be determined using the lottery system described in Section C a.

No more than 25% of applicants pulled from the waiting list each year may be applicants from this preference group.

4. **Homeless Preference:**

   (4 points)

Applies to applicants who:

- Lack a fixed, regular and adequate nighttime residence,
- Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations,
- A public or private place not ordinarily used as an accommodation for human beings (lacks indoor plumbing, toilet facilities, bathing facilities, adequate or safe electrical service, heat, or kitchen).

Written certification, through the submission of a completed MHA verification form for this preference and/or a letter with the equivalent information, by a public or private facility providing shelter, the police, a social services agency or other knowledgeable professionals that serve homeless persons is required to verify this preference. A MHA inspector may verify that the applicant is living in a place not normally used for human habitation. If a family is in transitional housing, they are considered homeless. However, a written statement is required from the agency providing the transitional housing.

**All verification must be dated within 60 days from the date of interview.**

5. **Working or Educational Preference:**

   (2 points)

Applies to applicants who meet any of the following requirements:

- The head of household, spouse/co-head or sole member is employed at least 32 hours per week,
- The head of household, spouse/co-head or sole member is age 62 or older,
- The head of household, spouse/co-head or sole member is disabled,
• The head of household, spouse/co-head or sole member is currently a student enrolled in, or a graduate in the last six months of, a school training program designed to prepare enrollees for the job market. (A student is an individual who is attending a school or training program full-time. A full-time student is a student who is enrolled for the number of hours or courses the school considers full-time attendance.)

6. **Residency Preference:** 

   **(2 points)**

Applies to applicants who meet any of the following requirements:

• The head of household, spouse/co-head or sole member is a current resident of Marin County.
• The head of household, spouse/co-head or sole member is employed in Marin County at least 32 hours a week.

7. **Veteran Preference:** 

   **(4 points)**

Applies to applicant households whose head of household or spouse/co-head is a current member of the military, a veteran, or a surviving spouse of a veteran. Dishonorably discharged veterans are not entitled to this preference.

MHA will require U.S. government documents which indicate that the applicant qualifies under the above definition.

**Family Unification Program**

Based on the availability of targeted voucher funding, MHA recognizes the following separate local preference to its Section 8 Housing Choice Voucher Waiting List:

• Families certified by Marin County Department of Health and Human Services, Division of Social Services, Children & Family Services (CFS) as a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family’s child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care and that MHA has determined to be eligible for a Family Unification Program (FUP) Housing Choice Voucher. These families may be:

   1. A current MHA waiting list applicant identified to and certified by the CFS as a FUP-eligible family and assisted in position number order after certification; or
   2. A FUP-eligible family referred from the CFS and placed on the MHA Section 8 waiting list in order of first come, first served.

MHA also has the following programs that receive targeted funding from HUD and for which admissions are handled separately from the Section 8 waiting list:

• **Veterans Affairs Supportive Housing**
  • If a family no longer needs case management as determined by the Veterans Affairs Medical Center, the family is still eligible for rental assistance under the Section 8 HCV program. In cases where case management is no longer needed, MHA will use one of its own vouchers, if available; to continue assisting this family and free up a voucher for another HUD-VASH eligible family. If a regular voucher is not available, the family will continue utilizing the HUD-VASH voucher. Please note that if a HUD-VASH voucher is switched from a HUD-VASH voucher to a regular voucher, the family is not subject to MHA’s waiting list because the family is already a participant in the MHA’s Section 8 HCV program.
• **Shelter Plus Care**
• **HOPWA**
• **Project Based Vouchers**
• **Non-Elderly Disabled Vouchers**
  See each program’s procedures for admission criteria.

**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 MHA’s fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30% of the area median income, whichever number is higher. To ensure this requirement is met, a MHA may skip non-ELI families on the waiting list in order to select an ELI family. However, such ELI families must be on the MHA waiting list.

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)].

**MHA Policy**

MHA 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**

MHA’s 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)].

**MHA 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 MHA’s hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected by lottery. Documentation will be maintained by MHA 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 MHA does not have to ask higher placed families each time targeted selections are made. Attachment B Local Preferences defines MHA’s local preferences.

Among applicants with equal preference status, the waiting list will be organized by lottery determined random order.

Other considerations in selection from the waiting list: Any admission mandated by court order related to desegregation of Fair Housing and Equal Opportunity will take precedence over the Preference System. Other admissions required by court order will also take precedence over the Preference System.
PREFERENCE DENIAL [24 CFR 982.201(D)]:

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

If the applicant falsifies documents or makes false statements in order to qualify for any preference or priority, they will be removed from the Waiting List.

REMOVAL FROM WAITING LIST [24 CFR 982.204(c)]

If an applicant fails to respond to a mailing from MHA, the applicant will be sent a formal letter of withdrawal and given fourteen (14) calendar days to contact MHA and request an informal review. If they fail to respond within fourteen (14) calendar days, the withdrawal stands. An extension of no more than 60 days will be considered as a reasonable accommodation if requested by a person with a disability. If a letter is returned by the Post Office, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If the letter is not returned by the Post Office, the notice will be considered delivered by MHA.

Notices will be made available in an accessible format upon the request of a person with a disability.

4-III.D. NOTIFICATION OF SELECTION

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

[24 CFR 982.554(a)].

MHA Policy

MHA 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 by the Post Office to MHA with no forwarding address, the family will be removed from the waiting list without further notice. It is the family’s responsibility to maintain an accurate mailing address on their application.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that MHA 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.

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

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

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

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

The family must provide the information necessary to establish the family’s eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, MHA 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 14 calendar 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, MHA will provide translation services in accordance with MHA’s LEP plan.

If the family is unable to attend a scheduled interview, the family should notify MHA in advance of the interview. The family will be responsible for rescheduling the interview. Families who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than fourteen calendar days from the original appointment date. The request must be made to the staff person who scheduled the appointment. If a family fails to appear for their interview without prior approval of MHA, their application will be denied unless they can provide acceptable documentation to MHA that an emergency prevented them from calling.

Families who fail to attend a scheduled interview without MHA approval will be denied assistance based on the family’s failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

MHA must verify all information provided by the family (see Chapter 7). Based on verified information, MHA 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.
MHA Policy

If MHA determines that the family is ineligible, MHA will send written notification of the ineligibility determination within 15 calendar 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 the waiting list in accordance with the change in the preference status (points). MHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If MHA determines that the family is eligible to receive assistance, MHA 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, MHA 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, MHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on MHA’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 MHA 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 MHA’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 MHA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains MHA’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]
MHA 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, MHA 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.

MHA 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, MHA 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 MHA staff person.

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

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

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

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. MHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without MHA 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 MHA’s jurisdiction;
• An explanation on how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;

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

• The advantages of 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.

MHA Policy

When MHA-owned units are available for lease, MHA 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 MHA-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 MHA’s policies on any extensions of the term. If MHA 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 MHA determines the payment standard for a family, how MHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.

• An explanation of how MHA determines the maximum allowable rent for an assisted unit.

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

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

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

• A statement of MHA policy on providing information about families to prospective owners.

• MHA subsidy standards including when and how exceptions are made.

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

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

• Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to MHA.
• The family obligations under the program, including any obligations of a welfare-to-work family.
• The grounds on which MHA may terminate assistance for a participant family because of family action or failure to act.
• MHA informal hearing procedures including when MHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

Additional Items to Be Included in the Briefing Packet

The PHA 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 complaint 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)
• “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

If MHA 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 MHAs including names, addresses, and telephone numbers.

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. MHA 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

MHA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify MHA of a change, notifying MHA of the request or change within 14 calendar days is considered prompt notice.

When a family is required to provide notice to MHA, 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 MHA 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 MHA 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.
  
  **MHA 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 MHA 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.
  
  **MHA Policy**

  MHA 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 MHA and the owner before moving out of the unit or terminating the lease.
  
  **MHA Policy**

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

- The family must promptly give MHA 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 MHA. The family must promptly notify MHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request MHA approval to add any other family member as an occupant of the unit.
  
  **MHA Policy**

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. MHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
• The family must promptly notify MHA in writing if any family member no longer lives in the unit.

• If MHA has given approval, a foster child or a live-in aide may reside in the unit. MHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when MHA 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.

  **MHA 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 MHA to verify that the family is living in the unit or information related to family absence from the unit.

• The family must promptly notify MHA when the family is absent from the unit.

  **MHA 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 MHA 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].

  **MHA Policy**

  MHA will terminate family assistance if services are not restoring within time allow by HQS inspector

• 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 MHA 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 MHA 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 MHA 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
MHA 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. MHA also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of that term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]
For each family, MHA determines the appropriate number of bedrooms under MHA 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 MHA 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 MHA 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 MHA subsidy standards.

**MHA Policy**

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

- MHA will assign one bedroom for the head of the house/spouse/co-head
- Single person families will be allocated one bedroom.
MHA will reference the following chart in determining the appropriate voucher size for a family:

<table>
<thead>
<tr>
<th>Voucher Size</th>
<th>Persons in Household</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom</td>
<td>1-4</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>2-6</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>4-8</td>
</tr>
<tr>
<td>4 Bedrooms</td>
<td>6-10</td>
</tr>
<tr>
<td>5 Bedrooms</td>
<td>8-12</td>
</tr>
</tbody>
</table>

5-ILC. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, MHA may grant an exception to its established subsidy standards if MHA 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)].

**MHA Policy**

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

MHA will notify the family of its determination within 15 calendar 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-IL.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, MHA issues a Housing Choice Voucher, form
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 MHA has determined the family to be eligible for the program, and that MHA expects to have money available to subsidize the family if the family finds an approvable unit. However, MHA 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 MHA’s housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after MHA 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].

MHA Policy

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

MHA 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, MHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

MHA Policy

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

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

5-I.E. VOUCHER TERM AND EXTENSIONS,

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)].

MHA 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 MHA grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]
MHA 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 MHA can approve. Discretionary policies related to extension and expiration of search time must be described in MHA’s administrative plan [24 CFR 982.54].

MHAs 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 MHA’s decision to approve or deny an extension. MHA’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)].

MHA Policy

MHA will NOT approve any extensions beyond 180 days from original date of issuance.

MHA will automatically approve one 60-day extension upon written request from the family. MHA will approve additional extension in one or more increments not to exceed 60 calendar days upon written request from the family 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 MHA.

Following is a list of extenuating circumstances that MHA 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 MHA
- 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. MHA 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 MHA prior to the expiration date of the voucher (or extended term of the voucher).

MHA will decide whether to approve or deny an extension request within 15 calendar 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)]
MHA must 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 MHA approves or denies the request [24 CFR 982.4]. MHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

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, MHA 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].

MHA Policy
If an applicant family’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), MHA will require the family to reapply for assistance. After the expiration of the voucher term or any extension, MHA 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 MHA’s subsidy. MHA 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 MHA 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 MHA policies for calculating annual income are found in Part I.

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

- **Part III: Calculating Family Share and MHA Subsidy.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining MHA 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.

<table>
<thead>
<tr>
<th>Summary of Income Included and Excluded by Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Live-in aides</td>
</tr>
<tr>
<td>Foster child or foster adult</td>
</tr>
<tr>
<td>Head, spouse, or co-head Other adult family members</td>
</tr>
<tr>
<td>Children under 18 years of age</td>
</tr>
<tr>
<td>Full-time students 18 years of age or older (not head, spouse, or co-head)</td>
</tr>
</tbody>
</table>

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].

MHA 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 less than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

MHA 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 MHA 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].

MHA Policy

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

Absent Head, Spouse, or Co-head

MHA Policy

An employed head, spouse, or co-head 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].

MHA Policy

MHA 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 co-head qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

MHA 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, MHA 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

MHA Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, MHA 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 MHA 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

MHA 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

MHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes MHA 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)]
- MHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

Most MHAs are required to use HUD’s Enterprise Income Verification (EIV) system. HUD allows MHAs 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 MHA does not determine it is necessary to obtain additional third-party data.

MHA Policy

Whenever possible, MHA will use HUD’s EIV system. When EIV is obtained and the family does not dispute the EIV employer data, MHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, MHA will make every effort to obtain at least two consecutive pay stubs dated within the last 60 days.
MHA 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 MHA determines additional information is needed.

In such cases, MHA 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 MHA annualized projected income.

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

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

**Known Changes in Income**

If MHA 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 $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case MHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 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 MHA 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 MHA’s policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

**Projecting Income**

In HUD’s EIV webcast of January 2008, HUD made clear that MHAs are not to use EIV quarterly wages to project 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)].

**MHA Policy**

For persons who regularly receive bonuses or commissions, MHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, MHA will use the prior year amounts. In either case the family may provide, and MHA 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, MHA 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

Income that is fully excluded means the entire amount qualifies to be excluded from annual income:

**MHA Policy**

- MHA will not verify the income in accordance with HUD Hierarchy
- MHA will not document in tenant file why third party verification was not available as required by 24CFR 960 and 24 CFR 982.516

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

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

**MHA 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 co-head) 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 MHA 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 MHA’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)].
MHA Policy

MHA 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].

MHA 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, MHA 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 MHA's interim reporting requirements.

HUD-Funded Training Programs

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

MHA 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.”

MHA Policy

MHA 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.

MHA 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 MHA

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 be consecutive.
**Lifetime Limitation**

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. 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.

**MHA Policy**

During the 24-month eligibility period, MHA will schedule and conduct an interim reexamination each time there is a change in the family member’s annual income that affects or is affected by the EID (e.g., when the family member’s income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period). PIH Notice 2016-05

**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)].

**MHA Policy**

MHA may request current taxes to identify income of a business

**Business Expenses**

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

**MHA Policy**

To determine business expenses that may be deducted from gross income, MHA 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 MHA to deduct from gross income expenses for business expansion.

**MHA 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 MHA to deduct from gross income the amortization of capital indebtedness.

**MHA Policy**

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means MHA 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 MHA 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.

**MHA 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, MHA 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**

**MHA Policy**

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

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

**Overview**

There is no asset limitation for participation in the HCV program. However, HUD requires that MHA 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, MHA 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 MHA policies related to each type of asset.

**General Policies**
**Income from Assets**

MHA 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 MHA 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) MHA 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, MHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

**MHA 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 MHA 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 MHA 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.

**MHA 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, MHA 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, MHA 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 MHA 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.”

MHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, MHA 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, MHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MHA 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 MHA 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 MHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

MHA Policy

MHA 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 recertification, the family may request an interim recertification to eliminate consideration of the asset(s).

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

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

**MHA 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**

**MHA 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. MHA may verify the value of the assets disposed of if other information available to MHA 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.

**MHA Policy**

MHA will accept a family declaration of the amount of assets of less than $5,000, and the amount of income expected to be received from those assets. The application and reexamination documentation, which is signed by all adults' family members, can serve as a declaration. Therefore, where the family has a net family assets equal of less than $5,000, MHA will not request supporting documentation (e.g. bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets.

However, MHA may request evidence at any time is necessary as verification of the amounts declare.

**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.

**MHA Policy**
In determining the market value of an investment account, MHA 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), MHA will calculate asset income based on the earnings for the most recent reporting period.

**Equity in Real Property or Other Capital Investments**

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

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

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member’s main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

**MHA 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 MHA 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.

**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, MHA 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].

**MHA Policy**

In determining the value of personal property held as an investment, MHA will use the family’s estimate of the value. MHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family’s estimated value is off by $50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.
Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

MHA Policy

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family’s assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].

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

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

MHA Policy

When a delayed-start payment is received and reported during the period in which MHA is processing an annual reexamination, MHA will adjust the family share and MHA 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 MHA.

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 other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].
MHA Policy

MHA 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.H.) [24 CFR 5.609(c) (14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c) (14)].

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

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

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]
MHA 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, MHA must include in annual income “imputed” welfare income. MHA must request that the welfare agency inform MHA 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**

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

**MHA Policy**

MHA will count court-awarded amounts for alimony and child support unless MHA 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**

MHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

**MHA 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 MHA. For contributions that may vary from month to month (e.g., utility payments), MHA will include an average amount based upon past history.
6-I.I. 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 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, MHA 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 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 sub marginal 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 MHAs 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.

<table>
<thead>
<tr>
<th>5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [MHA] must deduct the following amounts from annual income:</th>
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<tbody>
<tr>
<td>(1) $480 for each dependent;</td>
</tr>
<tr>
<td>(2) $400 for any elderly family or disabled family;</td>
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<tr>
<td>(3) The sum of the following, to the extent the sum exceeds three percent of annual income:</td>
</tr>
<tr>
<td>(i) Unreimbursed medical expenses of any elderly family or disabled family;</td>
</tr>
<tr>
<td>(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</td>
</tr>
<tr>
<td>(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.</td>
</tr>
</tbody>
</table>

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

Anticipating Expenses

MHA Policy

Generally, MHA 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 non-school periods and cyclical medical expenses), MHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, MHA 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. MHA 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 co-head 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, co-head, or sole member is 62 years of age or older, and a disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]
Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of Medical Expenses
HUD regulations define medical expenses at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

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

<table>
<thead>
<tr>
<th>Summary of Allowable Medical Expenses from IRS Publication 502</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services of medical professionals</td>
</tr>
<tr>
<td>Surgery and medical procedures that are necessary, legal, non-cosmetic</td>
</tr>
<tr>
<td>Services of medical facilities</td>
</tr>
<tr>
<td>Hospitalization, long-term care, and in-home nursing services</td>
</tr>
<tr>
<td>Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</td>
</tr>
<tr>
<td>Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)</td>
</tr>
</tbody>
</table>

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

**MHA Policy**

This policy applies only to families in which the head, spouse, or co-head 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, MHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-I.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.

**MHA 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, MHA 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 MHA 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 MHAs to further define and describe auxiliary apparatus [VG, p. 30].
**Eligible Auxiliary Apparatus**

**MHA 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.

**MHA 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, MHA 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.

**MHA Policy**

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

MHA 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, MHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-ILF. 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

MHA 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, MHA 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

MHA 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 MHA.
**Furthering Education**

**MHA 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**

**MHA 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.

MHA 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].

**MHA 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, MHA 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. MHA 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**

**MHA 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, MHA 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.

**MHA 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, MHA will use the schedule of child care costs from the local welfare agency. Families may present, and MHA will consider, justification for costs that exceed typical costs in the area.
PART III: CALCULATING FAMILY SHARE AND MHA SUBSIDY

6-IIIA. 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 MHA

MHA 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]

MHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

MHA 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 MHA’s applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy MHA 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.)

MHA Subsidy [24 CFR 982.505(b)]

MHA 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 MHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits MHA to pay the reimbursement to the family or directly to the utility provider.

MHA Policy

MHA will make utility reimbursements to the family.
6-IIIB. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If MHA establishes a minimum rent greater than zero, MHA 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 MHA 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.

   MHA 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.

   MHA 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.

   MHA 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 MHA.

   MHA Policy

   MHA has not established any additional hardship criteria.
Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, MHA must suspend the minimum rent requirement beginning the first of the month following the family’s request.

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

MHA Policy

MHA 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 MHA has established a minimum rent of $35.

<table>
<thead>
<tr>
<th>Family Share – No Hardship</th>
<th>Family Share – With Hardship</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 30% of monthly adjusted income</td>
<td>$0 30% of monthly adjusted income</td>
</tr>
<tr>
<td>$15 10% of monthly gross income</td>
<td>$15 10% of monthly gross income</td>
</tr>
<tr>
<td>N/A Welfare rent</td>
<td>N/A Welfare rent</td>
</tr>
<tr>
<td>$35 Minimum rent</td>
<td>$35 Minimum rent</td>
</tr>
<tr>
<td>Minimum rent applies.</td>
<td>Hardship exemption granted.</td>
</tr>
<tr>
<td>TTP = $35</td>
<td>TTP = $15</td>
</tr>
</tbody>
</table>

MHA 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.

MHA will make the determination of hardship within 15 calendar days.

No Financial Hardship

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

MHA Policy

MHA will require the family to repay the suspended amount within 30 calendar days of MHA’s notice that a hardship exemption has not been granted.
Temporary Hardship

If MHA determines that a qualifying financial hardship is temporary, MHA 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 MHA the amounts suspended. HUD requires MHA to offer a reasonable repayment agreement, on terms and conditions established by MHA. MHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

MHA Policy

MHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

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

MHA 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

MHA’s schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of MHA’s payment standards. The establishment and revision of MHA’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 MHA’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 MHA 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, MHA must use the appropriate payment standard for the exception area.

MHA 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, MHA 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 MHA 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. MHA will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, MHA 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:** MHA 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 MHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. MHA 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 MHA 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, MHA 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 MHA-established utility allowance schedule is used in determining family share and MHA subsidy. MHA must use the appropriate utility allowance for lesser of the unit size of dwelling or the voucher size for which the family qualifies using MHA subsidy standards [FR Notice 06/25/14]. See Chapter 5 for information on MHA’s subsidy standards.

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

Reasonable Accommodation

HCV program regulations require a MHA to approve a utility allowance amount higher than shown on MHA’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, MHA will approve an allowance for air-conditioning, even if MHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide MHA 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, MHA must use MHA current utility allowance schedule [24 CFR 982.517(d)(2)].

MHA 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. MHA must prorate the assistance provided to a mixed family. MHA 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 MHA subsidy for a family is calculated at $500 and two of four family members are ineligible, MHA 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 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; 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

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1 Text of 45 CFR 260.31 follows.
(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 ratable 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.

(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) Non recurrent, 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.

**HHS DEFINITION OF "ASSISTANCE"**

**45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEEDY 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:
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 MHA 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 MHA'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); monthly amounts from the Department of Veterans Affairs (VA). At the time of publication, 24 CFR 5.609 had yet to be updated.

2 FR Notice 11/24/08 makes note of pending revisions to this regulation, namely the exclusion of any deferred disability benefits received in lump-sum or prospective
(12) Adoption assistance payments in excess of $480 per adopted child;
(13) [Reserved]
(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to MHAs 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-
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).
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, MHAs 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. 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
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 MHA 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 MHA, the welfare agency will inform MHA 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 MHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. MHA 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 MHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to MHA 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) MHA 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 MHA decision.
(1) Public housing. If a public housing tenant claims that MHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if MHA denies the family's request to modify such amount, MHA shall give the tenant written notice of such denial, with a brief explanation of the basis for MHA determination of the amount of imputed welfare income. MHA notice shall also state that if the tenant does not agree with MHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review MHA 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 MHA 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 MHA 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 MHA denies the family's request to modify such amount, MHA shall give the family written notice of such denial, with a brief explanation of the basis for MHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with MHA determination, the family may request an informal hearing on the determination under MHA hearing procedure.

(e) MHA relation with welfare agency.

(1) MHA must ask welfare agencies to inform MHA 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 MHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) MHA 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 MHA. However, MHA 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. MHA shall be entitled to rely on the welfare agency notice to MHA of the welfare agency's determination of a specified welfare benefits reduction.
CHAPTER 7 - VERIFICATION

INTRODUCTION
MHA 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. MHA must not pass on the cost of verification to the family.

MHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary MHA 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 MHA.
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 MHA or HUD determines is necessary to the administration of the program and must consent to MHA 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 MHA 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, MHA 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 MHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS
HUD’s Verification Hierarchy

HUD authorizes MHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires MHA to use the most reliable form of verification that is available and to document the reasons when MHA uses a lesser form of verification.

MHA Policy

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

- Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.
Requirements for Acceptable Documents

MHA Policy

Any documents used for verification must be dated within 60 calendar days of the date they are provided to MHA. The documents must not be damaged, altered or in any way illegible.

MHA 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, MHA would accept the most recent report.

Print-outs from web pages are considered original documents.

MHA 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 MHA and must be signed in the presence of a MHA representative or notary public.

File Documentation

MHA 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 MHA 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.

MHA Policy

MHA 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 MHA is unable to obtain 3rd party verification, MHA will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

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

Up-front income verification (UIV) refers to MHA’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 MHA.
MHA Policy

MHA 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 MHA)
- Social Security database (provided by client)
- EDD (Employment Development Department) system
- The Work Number website
- Veteran’s Administration system
- Dept. of Health and Human Services database
- Child Support Services database

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until MHA 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 MHA.

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

**Use of HUD’s Enterprise Income Verification (EIV) System**

HUD’s EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires MHA to use the EIV system when available. The following policies will apply when MHA has access to HUD’s EIV system.

The EIV system contains two main components: tenant income data reports and “exceeds threshold” reports.

**Tenant Income Data (TID) Reports**

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

MHA Policy

MHA will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports will be retained in participant files with the applicable annual or interim reexamination documents.
When MHA determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

**Income Discrepancy Reports (IDRs)**

The IDR is a tool for identifying families who may have concealed or under-reported income. Data in the IDR represents income for past reporting periods and may be between 6 months and 30 months old at the time IDRs are generated.

Families who have not concealed or under-reported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

**MHA Policy**

MHA will generate and review IDRs on a monthly basis. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, MHA will begin with the largest discrepancies.

When MHA determines that a participant appearing on the IDR has not concealed or under-reported income, the participant’s name will be placed on a list of “false positive” reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

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

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

**EIV Identity Verification**

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

When identity verification for a participant fail, a message will be displayed within the EIV system and no income information will be displayed.

**MHA Policy**

MHA will identify participants whose identity verification has failed as part of the annual reexamination process.

MHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When MHA determines that discrepancies exist due to MHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

**7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD’s current verification hierarchy defines two types of written third-party verification. The more preferable form, “written third-party verification,” consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to 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.
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.

When the PHA is required to obtain 3rd party verification, and is unable to obtained, the PHA will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

**PHA Policy**

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

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

As verification of earned income, the PHA will request consecutive pay stubs within a current 60-day period.

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 risks which may be reduced through the 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.

**PHA Policy**

The PHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.
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., 14 calendar 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.

**PHA Policy**

In collecting third-party oral verification, PHA 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 the PHA 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.

**PHA Policy**

If the family cannot provide original documents, the PHA 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.

**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].

**PHA Policy**

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.
7-I.E. REVIEW OF DOCUMENTS
Using Review of Documents as Verification

MHA Policy

If MHA has determined that third-party verification is not available or not required, MHA will use documents provided by the family as verification.

MHA may also review documents when necessary to help clarify information provided by third parties. In such cases MHA will document in the file how MHA arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

MHA 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 MHA.

MHA 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 MHA and must be signed by the family member whose information or status is being verified.
Part II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

MHA Policy

MHA will require families to furnish verification of legal identity for each household member.

<table>
<thead>
<tr>
<th>Verification of Legal Identity for Adults</th>
<th>Verification of Legal Identity for Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate of birth, naturalization papers</td>
<td>Certificate of birth</td>
</tr>
<tr>
<td>Church issued baptismal certificate</td>
<td>Adoption papers</td>
</tr>
<tr>
<td>Current, valid driver’s license or Department of Motor Vehicles identification card</td>
<td>Custody agreement</td>
</tr>
<tr>
<td>U.S. military discharge (DD 214)</td>
<td>Health and Human Services ID</td>
</tr>
<tr>
<td>U.S. passport</td>
<td>School records</td>
</tr>
<tr>
<td>Employer identification card</td>
<td></td>
</tr>
</tbody>
</table>

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 MHA’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 MHA and be signed in the presence of a MHA representative or MHA notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

MHA Policy

MHA will also accept the following documents as evidence if the SSN is provided on the document:

- Driver’s license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- Payroll stubs
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, MHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. MHA will require documentation of the SSN within 60 calendar days from the date of the family member’s self-
certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided. If the family member is a newborn, MHA requires documentation of the newly assigned SSN within 90 days.

MHA Policy

MHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, MHA will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE
A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

MHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, MHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, passports, 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.

MHA 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

MHA Policy

Certification by the head of household is normally sufficient verification. If MHA has reasonable doubts about a marital relationship, MHA 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

MHA Policy

Certification by the head of household is normally sufficient verification. If MHA has reasonable doubts about a separation or divorce, MHA 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

MHA 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).

In the event such no document can be provide due to the family member no longer available to family, the family must certify in the presence of MHA staff.

Foster Children and Foster Adults

MHA 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

MHA Policy

MHA 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 co-head.
- 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.

MHA Policy

In accordance with the verification hierarchy described in Section 7-I. B, MHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of institution of higher education in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If MHA cannot verify at least one of these exemption criteria, MHA 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, MHA will then proceed to verify either the student’s parents’ income eligibility (see Section 7-III.J) or the student’s independence from his/her parents (see below).
Independent Student

MHA Policy

MHA 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-ILL.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-ILL.F. DOCUMENTATION OF DISABILITY

MHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. MHA is not permitted to inquire about the nature or extent of a person’s disability [24 CFR 100.202(c)]. MHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If MHA receives a verification document that provides such information, MHA will not place this information in the tenant file. Under no circumstances will MHA 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].
MHA Policy

For family members claiming disability who receive disability benefits from the SSA, MHA 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, MHA 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), MHA 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 MHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran’s disability benefits, worker’s compensation, or other non-SSA benefits based on the individual’s claimed disability are not sufficient verification that the individual meets HUD’s definition of disability in 24 CFR 5.603.

MHA 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 MHA 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.

MHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

MHA Policy

Family members who claim U.S. citizenship or national status may be required to provide proof of citizenship or eligible immigrant status.
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.

MHA 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, MHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

MHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

MHA must verify any preferences claimed by an applicant.

MHA Policy

MHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. MHA will verify this preference using MHA’s termination records.

Preferences will be verified in accordance with Chapter 4 of this Admin Plan
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 MHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Wages

PHA Policy

For wages other than tips, the family must provide at least two current, consecutive pay stubs.

Tips

MHA 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

MHA 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.

- MHA may also require business bank statements for all accounts associated with the family and the business.

MHA 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 MHA 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, MHA 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 MHA 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

MHA Policy

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will accept family declaration of benefits.

To verify the SS/SSI benefits of applicants, MHA 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), MHA will help the applicant requests 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 MHA.

To verify the SS/SSI benefits of participants, MHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, MHA 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) MHA will help the applicant requests 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 MHA.

7-III.D. ALIMONY OR CHILD SUPPORT
MHA Policy

The way MHA 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, MHA 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.Da. GENERAL ASSISTANCE**

When the family declares that assistance from Department of Children and Family, verification will be sought in the following order.

**MHA Policy (PIH-Notice 2013-04)**

When cash assistance is received and payments are made through a state or local entity, MHA will request an award letter or print out of payments.

If income is fully excluded like Food Stamps, MHA will not verify the income.

**7-III.E. ASSETS AND INCOME FROM 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.

**MHA Policy**

MHA will accept a family declaration of the amount of assets of less than $5,000, and the amount of income expected to be received from those assets. The application and reexamination documentation, which is signed by all adults’ family members, can serve as a declaration. Therefore, where the family has a net family assets equal of less than $5,000, MHA will not request supporting documentation (e.g. bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets.

However, MHA may request evidence at any time is necessary as verification of the amounts declare.

*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. MHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

**MHA Policy**

MHA will verify the value of assets disposed of only if:

- MHA 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 MHA verified this amount. Now the person reports that she has given this $10,000 to her son. MHA 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, MHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY
MHA 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, MHA 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
MHA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member’s retirement status.

Before retirement, MHA 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, MHA 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, MHA 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.

MHA must obtain verification for income exclusions only if, without verification, MHA 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, MHA will confirm that MHA 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.
MHA Policy

MHA 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, MHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

MHA Policy

MHA 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, MHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

MHA 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), MHA will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, MHA will request written verification from the institution of higher education regarding the student’s tuition amount.

If MHA is unable to obtain third-party written verification of the requested information, MHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. Parental income of student’s subject to eligibility restrictions

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student’s parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with MHA 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.
MHA Policy

If MHA is required to determine the income eligibility of a student’s parents, MHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II. E). MHA 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 MHA. The required information must be submitted (postmarked) within 14 calendar days of the date of MHA’s request or within any extended timeframe approved by MHA.

MHA 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: MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS
The dependent and elderly/disabled family deductions require only that MHA 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. MHA 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. MHA 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

MHA Policy
Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- Written third-party verification forms, if the family is unable to provide acceptable documentation
- 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 MHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MHA 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, or expenses for last 12 months to anticipate next 12 months’ expenses. In addition, MHA 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 co-head is at least 62, or a person with disabilities. MHA 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 MHA’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.

MHA 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

MHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, MHA 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

MHA Policy

MHA 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**

**MHA 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, MHA 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. MHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

**Family Member(s) Permitted to Work**

MHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

**MHA Policy**

MHA 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.

MHA 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, MHA 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. MHA 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.

MHA 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

MHA 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.
MHA Policy

Information to be Gathered

MHA 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 MHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases MHA will request verification from the agency of the member’s job seeking efforts to date and require the family to submit to MHA any reports provided to the other agency.

In the event third-party verification is not available, MHA will provide the family with a form on which the family member must record job search efforts. MHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

MHA 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

MHA 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.

MHA Policy

MHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II. F).

MHA 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).

MHA 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.

**MHA Policy**

The actual costs the family incurs will be compared with MHA’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, MHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.
## EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14)

<table>
<thead>
<tr>
<th>Income Type</th>
<th>Upfront (LEVEL 5)</th>
<th>Written Third Party (LEVEL 4)</th>
<th>Oral Third Party (LEVEL 3)</th>
<th>Document Review (LEVEL 2)</th>
<th>Tenant Declaration (LEVEL 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages/Salaries</td>
<td>Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.</td>
<td>The PHA mails, facsimile, or e-mails a verification form directly to the independent source to obtain wage information.</td>
<td>In the event the independent source does not respond to the PHA’s written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.</td>
<td>When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares the family’s total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.</td>
<td>Use of HUD systems, when available.</td>
<td>The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.</td>
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</tbody>
</table>

**Verification of Employment Income:** The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.  

**Effective Date of Employment:** The PHA should always confirm start and termination dates of employment.
<table>
<thead>
<tr>
<th>Income Type</th>
<th>Upfront</th>
<th>Written Third Party</th>
<th>Oral Third Party</th>
<th>Document Review</th>
<th>Tenant Declaration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-Employment</td>
<td>Not Available</td>
<td>The PHA mails or faxes a verification form directly to the local SSA office to obtain income information.</td>
<td>The PHA may call the source to obtain income information.</td>
<td>The PHA may accept any documents (i.e., tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
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<td>(LEVEL 2)</td>
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<td><strong>Verification of Self-Employment Income:</strong> Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.</td>
<td></td>
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</tr>
<tr>
<td>Social Security Benefits</td>
<td>Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.</td>
<td>The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. <strong>(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</strong></td>
<td>The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. <strong>(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</strong></td>
<td>The PHA may accept an original SSA Notice from the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
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<td>(LEVEL 5)</td>
<td>(LEVEL 4)</td>
<td>(LEVEL 3)</td>
<td>(LEVEL 2)</td>
</tr>
<tr>
<td>Welfare Benefits</td>
<td>Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.</td>
<td>The PHA may call the local Social Services Agency to obtain current benefit amount.</td>
<td>The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
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<tr>
<td></td>
<td></td>
<td>(LEVEL 5)</td>
<td>(LEVEL 4)</td>
<td>(LEVEL 3)</td>
<td>(LEVEL 2)</td>
</tr>
<tr>
<td>Income Type</td>
<td>Upfront</td>
<td>Written Third Party</td>
<td>Oral Third Party</td>
<td>Document Review</td>
<td>Tenant Declaration</td>
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<td>-------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Child Support</td>
<td>Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.</td>
<td>The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.</td>
<td>The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Unemployment Benefits</td>
<td>Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.</td>
<td>The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.</td>
<td>The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Pensions</td>
<td>Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.</td>
<td>The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.</td>
<td>The PHA may call the pension provider to obtain current benefit amount.</td>
<td>The PHA may review an original benefit notice from the pension provider provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Income Type</td>
<td>Upfront (LEVEL 5)</td>
<td>Written Third Party (LEVEL 4)</td>
<td>Oral Third Party (LEVEL 3)</td>
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</tr>
<tr>
<td>Assets</td>
<td>Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.</td>
<td>The PHA mails, facsimile, or emails a verification form directly to the source to obtain asset and asset income information.</td>
<td>The PHA may call the source to obtain asset and asset income information.</td>
<td>The PHA may review original documents provided by the tenant. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
<td>The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. <strong>Note:</strong> The PHA must document in the tenant file, the reason third party verification was not available.</td>
</tr>
<tr>
<td>Comments</td>
<td>Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.</td>
<td><strong>Note:</strong> The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.</td>
<td>The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.</td>
<td>The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. <strong>Note:</strong> Notarized statement should include a perjury penalty statement.</td>
<td></td>
</tr>
</tbody>
</table>

**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 [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 MHA.
- 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.

<table>
<thead>
<tr>
<th>Required Document</th>
<th>Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form I-551 Alien Registration Receipt Card</td>
<td>(for permanent resident aliens)</td>
</tr>
<tr>
<td>Form I-94 Arrival-Departure Record annotated with one of the following:</td>
<td>• “Admitted as a Refugee Pursuant to Section 207”</td>
</tr>
<tr>
<td></td>
<td>• “Section 208” or “Asylum”</td>
</tr>
<tr>
<td></td>
<td>• “Section 243(h)” or “Deportation stayed by Attorney General”</td>
</tr>
<tr>
<td></td>
<td>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</td>
</tr>
<tr>
<td>Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”</td>
<td>• Form I-94 Arrival-Departure Record with no annotation accompanied by:</td>
</tr>
<tr>
<td></td>
<td>• A final court decision granting asylum (but only if no appeal is taken);</td>
</tr>
<tr>
<td></td>
<td>• 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);</td>
</tr>
<tr>
<td></td>
<td>• A court decision granting withholding of deportation; or</td>
</tr>
<tr>
<td></td>
<td>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</td>
</tr>
<tr>
<td>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”</td>
<td>• 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</td>
</tr>
<tr>
<td></td>
<td>• 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 <em>Federal Register</em></td>
</tr>
</tbody>
</table>
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 MHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and MHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. PHA still have the option to inspect every unit annually.

HUD also requires MHAs 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 MHA 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 MHA 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 MHA 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 C. 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)

Tenant Preference Items

HUD requires MHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, MHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment C 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.

MHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to MHA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

MHA 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 MHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

MHA 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.

MHA 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

MHA Policy

As permitted by HUD, MHA 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, and presents a hazard, 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 or removed. Windows must be weather-stripped as needed to ensure a weather-tight seal.

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.

Floors

All floors must be free of any tripping hazards.
All floors must be free of any cutting hazards.

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.
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 MHA 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 MHA notification.

MHA Policy

The following are considered life threatening conditions:

- Any property determined uninhabitable by a city agency, including uninhabitable units by fire, flood or natural disaster
- Any condition that jeopardizes the security of the unit (to include but not limited to a missing or broken locks on exterior doors)
- 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
- Absence of at least one working smoke detector on each level of the unit
- Absence of a working carbon monoxide detector in an area with natural gas burning system.

If an owner fails to correct life threatening conditions as required by MHA, 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 MHA, MHA may terminate the family’s assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless MHA 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 MHA 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, MHA 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 MHA, 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 MHA will take action in accordance with Section 8-II.G.

MHA 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 MHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, MHA must issue the family a new voucher, and the family and MHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MHA 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

MHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- **Initial Inspections.** MHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.

- **Annual/Biennial Inspections.** HUD requires MHA to inspect each unit under lease at least annually or biennial, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

- **Special Inspections.** A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

- **Quality Control Inspections.** HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

**Inspection of MHA-owned Units [24 CFR 982.352(b)]**

MHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a MHA-owned unit. A MHA-owned unit is defined as a unit that is owned by MHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by MHA). The independent agency must communicate the results of each inspection to the family and MHA. The independent agency must be approved by HUD, and may be the unit of general local government for MHA jurisdiction (unless MHA is itself the unit of general local government or an agency of such government).

**Inspection Costs**

MHA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of MHA-owned units, MHA may compensate the independent agency from ongoing administrative fee for inspections performed. MHA 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 MHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

**MHA 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, MHA will give as much notice as possible, given the nature of the emergency.
Owner and Family Inspection Attendance

HUD permits MHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

**MHA 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, MHA 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 MHAs 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 calendar days of submission of the Request for Tenancy Approval (RTA). For MHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 calendar days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

**MHA Policy**

MHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 calendar days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Re-inspections

**MHA 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 MHA for good cause. MHA will re-inspect the unit within 5 business days of the date the owner notifies MHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any MHA-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, MHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. MHA may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, 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.

**MHA Policy**

If utility service is not available for testing at the time of the initial inspection, MHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. MHA will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by MHA.

Appliances

**MHA Policy**

If the family is responsible for supplying the stove and/or refrigerator, MHA 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 MHA. MHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. The PHA may re-inspect the unit to confirm that appliances have been installed and are working before the HAP contract is executed by the PHA.

8-ILC. ANNUAL/BIENNIAL HQS INSPECTIONS FR Notice 6/25/2014

**Scheduling the Inspection**

Each unit under HAP contract must have an annual inspection no more than 24 months after the most recent inspection.

**MHA Policy**

If an adult family member cannot be present on the scheduled date, the family should request that MHA reschedule the inspection. Requests for reschedule must be made orally or in writing at least three (3) days prior to the inspection scheduled date. MHA and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. MHA may schedule an inspection more than 5 business days after the original date for good cause.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. At its discretion, MHA may request documentation of the “good cause” prior to rescheduling the inspection.

If the family is requesting to reschedule a re-inspection after the assisted unit failed HQS, the re-inspection will only be granted for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, MHA will automatically schedule a second inspection. If the family fails to ensure that an adult attends the first scheduled appointment or a rescheduled inspection, the CHA will automatically schedule a second attempt inspection. If the family misses two consecutive scheduled inspections without MHA approval, MHA 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]

MHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

MHA Policy

During a special inspection, MHA 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 within no more than 30 calendar days.

If the annual/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled MHA may elect to conduct a full annual/biennial inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a MHA 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, MHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

MHA Policy

When life threatening conditions are identified, MHA 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 MHA’s notice.

When failures that are not life threatening are identified, MHA will send the owner and the family a written notification of the inspection results within 15 calendar 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 MHA-approved extension), the owner’s HAP will be abated in accordance with MHA 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 MHA-approved extension, if applicable) the family’s assistance will be terminated in accordance with MHA policy (see Chapter 12).

Extensions
For conditions that are life-threatening, MHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, MHA may grant an exception to the required time frames for correcting the violation, if MHA determines that an extension is appropriate [24 CFR 982.404].

MHA Policy
Extension must be request in writing before the expiration of the original term for corrections. Extensions will be granted in cases where MHA 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.

Re-inspections
MHA Policy

Self-Certifications
If there are no life threatening repair items and there are five (5) or less required repairs, the landlord and tenant will receive a deficiency letter which requests the landlord and tenant to self-certify that the repairs are complete. A follow up inspection will be schedule in the event Self Certification is not received or approved.

Landlord and tenant will have 21 calendars days to submit the Self-Certification to MHA. Specifics on how and where to submit the self-certification will be included with the deficiency letter.

If MHA receives the self-certification forms from the landlord and tenant by the deadline date, and is approve, the unit will pass inspection and re-inspection will be cancelled.

If MHA does not receive the self-certification by the deadline date, the schedule re-inspection must occur to prevent unit to go into abatement.

If a unit goes into abatement, the unit will need a follow up inspection in order to pass inspection. It is the landlord’s responsibility to notify MHA for this follow up inspection.

All life threatening repair items will require a follow up inspection.

Any inspections that contain over five (5) repair items will require a follow up inspection.

All initial (move-in) inspections will require a follow up inspection.
False self-certifications from landlord or tenant may lead to the landlord being banned from participation in the program and the client's assistance being terminated.

When a re-inspection is required, the family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection date, MHA will abate payment to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with MHA policies. If MHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, MHA 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-IL.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, MHA 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 MHA, HUD requires MHA 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.

MHA Policy

MHA will make all HAP abatements effective the first of the month following the expiration of MHA specified correction period (including any extension).

MHA 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

MHA must decide how long any abatement period will continue before the HAP contract will be terminated. MHA 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. MHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

MHA Policy

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies MHA before the termination date of the HAP contract, MHA 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 MHA 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 MHA (and any extensions), MHA 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 MHA 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.

MHA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a MHA-owned unit, MHA 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 MHA-owned unit is defined as a unit that is owned by MHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by MHA). The independent agency must communicate the results of the rent reasonableness determination to the family and MHA. The independent agency must be approved by HUD, and may be the unit of general local government for MHA jurisdiction (unless MHA 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

MHA 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. MHA (or independent agency in the case of MHA-owned units) will assist the family with the negotiations upon request. At initial occupancy MHA 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.

MHA 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, MHA 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 MHA will consider unit size and length of tenancy in the other units.
MHA will determine whether the requested increase is reasonable within 15 calendar 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 MHA’s receipt of the owner’s request or on the date specified by the owner, whichever is later.

**MHA- and HUD-Initiated Rent Reasonableness Determinations**

HUD requires MHA 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 MHA to make a determination at any other time. MHA may decide that a new determination of rent reasonableness is needed at any time.

**MHA Policy**

In addition to the instances described above, MHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) MHA determines that the initial rent reasonableness determination was in error or (2) MHA 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 MHAs to take into consideration the factors listed below when determining rent comparability. MHA 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 Comparable**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

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

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

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

8-III.D. MHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

MHA Policy

MHA may contract with a third party vendor. The contractor will collect and maintain data on market rents in MHA’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 contractor will be responsible to maintain data updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database, or will not be used for comparable.

How Rents Are Determined

MHA 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. 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, MHA 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 rents 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.

MHA will notify the owner of the rent MHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. MHA 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 MHA’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 MHA
- 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 MHA). 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 MHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, MHA 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 MHA 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 MHA, 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)] The PHA must provide the owner with the family’s current and prior address
9-I.A. TENANT SCREENING

MHA 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)].

MHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the MHA’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 MHA’s approval of the tenancy, MHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. MHA must also inform the owner or manager of his/her rights and obligations under the Violence against Women Act of 2005 (VAWA) [24 CFR 5.2007(3)(ii); 5.2005(a)(2)].

MHA must provide the owner with the family's current and prior address (as shown in MHA records) if requested; and the name and address (if known to the MHA) of the landlord at the family's current and prior address. [24 CFR 982.307(b)(1)].

MHA is permitted, but not required, to offer the owner other information in the MHA’s possession about the family’s tenancy [24 CFR 982.307(b)(2)].

MHA’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)].

**MHA Policy**

MHA will not screen applicants for family behavior or suitability for tenancy.

MHA will not 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 MHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the MHA:

- 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 MHA 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 MHA 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].

**MHA 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 MHA will not process, more than one (1) RTA at a time.

When the family submits the RTA MHA 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, MHA 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. MHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, MHA 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, MHA 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. MHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, MHA will attempt to communicate with the owner and family by phone, fax, or email. MHA will use mail when the parties can’t be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

MHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where MHA 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 MHA’s jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

MHA 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.

MHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by MHA issuing the voucher may also be leased in the voucher program. In order for a MHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and MHA 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 MHA-owned unit without any pressure or steering by the MHA.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, MHA to allow 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 MHA has chosen to allow.

The regulations do require MHA 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; MHA 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 MHA. 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.

**MHA Policy**

MHA 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 MHA to approve a shorter initial lease term if certain conditions are met. Shorter terms will require the approval from the Program Manager after a written request and sufficient justification has been provided by the tenant or owner. Month-to-month or six-month may be approved under special circumstances.

**MHA Policy**

MHA will generally not approve an initial lease term of less than one (1) year. However shorter terms can be approved by the Program Manager. Month to month or six (6) month leases may be okay under special circumstances.

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.

MHA 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. MHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if MHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].
MHA Policy

MHA will allow the owner to collect any security deposit amount the owner determines is appropriate and is allowed by California State Landlord-Tenant Law. 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 MHA’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)].

MHA Policy

MHA 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.

MHA Review of Lease

MHA will review the dwelling lease for compliance with all applicable requirements.

MHA Policy

If the dwelling lease is incomplete or incorrect, MHA 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. MHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, MHA will attempt to communicate with the owner and family by phone, fax, or email. MHA will use mail when the parties can’t be reached by phone, fax, or email.
MHA 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 MHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family’s Request for Tenancy Approval, with proposed dwelling lease, MHA 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, MHA 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 MHA 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 MHA, 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)].

MHA Policy

MHA will complete its determination within 15 calendar days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the MHA, MHA 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. MHA will not accept corrections over the phone.

If MHA 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. MHA 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), MHA 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 MHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, MHA 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 MHA has given approval for the family of the assisted tenancy, the owner and MHA 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)].

MHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

MHA 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.

MHA 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, MHA 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 MHA may not pay any housing assistance payment to the owner.

MHA Policy

Owners who have not previously participated in the HCV program may attend a meeting with MHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. MHA may require owners to attend this meeting on a case-by-case basis, if it determines that the owner does sufficiently understand the requirements and responsibilities under the HCV program.

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

The owner and MHA will execute the HAP contract. MHA will not execute the HAP contract until the owner has submitted IRS form W-9. MHA 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 MHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, MHA 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 MHA 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 MHA 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)]. MHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

**MHA Policy**

Where the owner is requesting a rent increase, MHA will determine whether the requested increase is reasonable within 15 calendar 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 MHA 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 MHA policies governing moves within or outside MHA’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 MHA’s HCV program, whether the family moves to another unit within MHA’s jurisdiction or to a unit outside MHA’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 MHA’s jurisdiction. This part also covers the special responsibilities that MHA has under portability regulations and procedures.
PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under 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 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the notice must be at least a 30-day notice and the family must give MHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].

- The lease for the family’s unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

  **MHA Policy**

  If the family and the owner mutually agree to terminate the lease for the family’s unit, the family must give MHA 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 982.354(b)(2)]. The family must give MHA 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 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the 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 982.354(b)(4), 24 CFR 982.353(b)].

  **MHA 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, the PHA will request documentation in accordance with section 16-IX. D of this plan.

  MHA 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 the PHA will document the waiver in the family’s file.

- MHA has terminated the HAP contract for the family’s unit for the owner’s breach [24 CFR 982.354(b)(1)(i)].

- MHA 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, MHA must issue the family a new voucher, and the family and MHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, MHA 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 MHA 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 MHA may deny a family permission to move and two ways in which a MHA may restrict moves by a family.

**Denial of Moves**

HUD regulations permit MHA to deny a family permission to move under the following conditions:

**Insufficient Funding**

The MHA may deny a family permission to move if MHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2011-3 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

**MHA Policy**

MHA will deny a family permission to move on grounds that MHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) MHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) MHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

The PHA will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list.

The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

MHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

**Grounds for Denial or Termination of Assistance**

The PHA may deny a family permission to move if it has grounds for denying or terminating the family’s assistance [24 CFR 982.354(e)(2)].

**MHA Policy**

If MHA has grounds for denying or terminating a family’s assistance, MHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, MHA will deny a family permission to move for this reason; however, it retains the discretion to allow a family permission to move under special circumstances.
Marin Housing will deny a family’s request to move and issue a notice of proposed termination from the voucher program if:

i. The family has violated any Family Obligations, as contained in the Voucher Family Obligations form and on the Voucher; or
ii. The family owes money to Marin Housing; unless the family is currently on the existing repayment agreement and the reason to move is through no fault of the family; or
iii. The family has an outstanding debt to the owner of the current rental unit; or
iv. The rental unit was left damaged (other than damage from ordinary wear and tear).

The family will have the opportunity to request an informal hearing, if there is any disagreement with the notice of termination. Should the tenant request an informal hearing, the 60-day search time on any issued transfer voucher will be suspended until the hearing process is completed.

The Program Manager may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control, and proper documentation has been provided.

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit MHA to prohibit any elective move by a participant family during the family’s initial lease term. They also permit MHA 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.)

MHA Policy

MHA will deny a family permission to make an elective move during the family’s initial lease term. This policy applies to moves within MHA’s jurisdiction or outside it under portability.

MHA 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 MHA’s jurisdiction.

MHA 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, MHA 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 MHA 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)]. The notice from the family to the owner and MHA must be at least a 30-day notice. If the family wishes to move to a unit outside MHA’s jurisdiction under portability, the notice to MHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2), Notice PIH2011-3]. The notices must be in writing [24 CFR 982.5].
Approval

PHA Policy

Upon receipt of a family’s notification that it wishes to move, MHA 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. When family moves out of the unit without agency approval, it has violated family obligation and will be considered grounds for termination of assistance.

Reexamination of Family Income and Composition

MHA Policy

For families approved to move to a new unit within MHA’s jurisdiction, MHA 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 MHA’s jurisdiction under portability, MHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

MHA Policy

For families approved to move to a new unit within MHA’s jurisdiction, MHA will issue a new voucher within 15 calendar days of MHA’s written approval to move. MHA 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 MHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of MHA’s jurisdiction under portability, MHA 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, MHA 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.

Also, when a participant moves out of an assisted unit, assistance stops at the old unit at the end of the 30-day notice period. Assistance will start on the new unit on the effective date of the lease and contract. The participant is responsible for payment of the full rent to the new owner until the prior owner’s contract has been terminated.

When it is a move within the same building or project, or between buildings owned by the same owner, a complete update of the income is not required. The contract can be amended to reflect the new address and the expiration of the contract is set at the end of the original contract period.

On a limited basis, when necessitated by circumstances out of the family’s control and approved by the Program Manager, MHA will allow the term of the assisted lease for the new assisted unit to 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. 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.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. 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 provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family (24 CFR 982.255(b)).

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside 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 MHA’s jurisdiction under portability. However, HUD gives MHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].
MHA Policy

In determining whether or not to deny an applicant family permission to move under portability because MHA lacks sufficient funding or has grounds for denying assistance to the family, the initial MHA will follow the policies established in section 10-I. B of this chapter. If the PHA does deny the move due to insufficient funding, the PHA will notify HUD in writing within 10 business days of the PHA’s determination to deny the move.

In addition, MHA 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)].

MHA Policy

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) MHA’s jurisdiction at the time the family’s application for assistance was submitted, the family must live MHA’s jurisdiction with voucher assistance for at least 12 months before requesting portability.

MHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence or stalking.)].

Participant Families

The initial MHA 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 they remained in the unit [24 CFR 982.353(b)].

MHA Policy

The MHA will determine whether a participant family may move out of MHA’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. PHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d) (1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355© (1)].

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 982.353(d)(1) 24 CFR 982.355 (9)]. If the applicant family is not income eligible in that area, 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 re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

**Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

**MHA Policy**

For a participant family approved to move out of its jurisdiction under portability, MHA 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.

MHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations, such as when MHA has knowledge that there has been a significant change in the family’s income or composition since the last reexamination, and MHA needs to send current (within 120 days) information to the receiving PHA.

**Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require PHA to provide information on portability to all applicant families that qualify to lease a unit outside MHA’s jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

**MHA Policy**

No formal briefing will be required for a participant family wishing to move outside MHA’s jurisdiction under portability. However, MHA 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).

MHA will provide the name, address, and phone of the contact for MHA in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family must select the receiving PHA and notify the initial PHA of which receiving PHA was selected. The PHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family.

MHA will advise the family that they will be under that PHA’s policies and procedures, including screening, subsidy standards and voucher extension policies and payment standards.

**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, MHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.
MHA Policy

For families approved to move under portability, MHA will issue a new voucher within 15 calendar days of MHA’s written approval to move.

The initial term of the voucher will be 120 days.

Voucher Extensions and Expiration

MHA Policy

MHA will approve no extensions to a voucher issued to an applicant or participant family porting out of PHA’s jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial MHA’s jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA’s jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II. E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA’s voucher program, a family that moves to another PHA’s jurisdiction under portability must be under HAP contract in the receiving PHA’s jurisdiction within 90 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].

PHA Policy

The PHA 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 Notification to the Receiving PHA

After approving a family’s request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3)24 CFR 982.355©(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c) (6)].

MHA Policy

Because the portability process is time-sensitive, MHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. PHA will pass this information along to the family. MHA 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 [24 CFR 982.355(c)(4), Notice PIH 2011-3]

MHA Policy

In addition to these documents, PHA will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all family members age 6 and over
- 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
- A copy of the family’s current EIV data

The PHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2011-3Letter to Executive Directors 9/15/2015]

The deadline for submission of initial billing is 90 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.

MHA Policy

If MHA has not received an initial billing notice from the receiving PHA within 90 days of expiration of the IHA’s voucher, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the receiving PHA reports that the family is not yet under HAP contract, PHA 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. MHA will send the receiving PHA a written confirmation of its decision by mail.

MHA 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 receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA’s ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

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 over-leasing or funding shortfalls. 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.

MHA Policy

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 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.

Subsequent Family Moves

Within the Receiving PHA’s Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

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.

PHA Policy

If the PHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I. B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the PHA’s jurisdiction.

The PHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.
Outside the Receiving PHA’s Jurisdiction [Notice PIH 2004-12]

If the 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.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For MHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA’s jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA’s policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)].

The family’s unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355© (12)], and the receiving PHA’s policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA’s Request [24 CFR 982.355(c)]

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 [24 CFR 982.355(c)]. 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 without consent of the initial PHA (24 CFR 982.355(c)(4))

MHA Policy

MHA 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 PHA’s jurisdiction under portability, the family is responsible for promptly contacting PHA and complying with PHA’s procedures for incoming portable families. The family’s failure to comply may result in denial or termination of the receiving PHA’s voucher [24 CFR 982.355(c)(8)].
If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c) (13)].

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].

**MHA Policy**

MHA may require, but not necessary, the family to attend a briefing, especially when family is an applicant and has never participated in the program. MHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about MHA’s payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

**Income Eligibility and Reexamination**

The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA’s voucher program [24 CFR 982.355(c)(1)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c) (11)].

**MHA Policy**

For any family moving into its jurisdiction under portability, MHA will conduct a new reexamination of family income and composition. However, MHA will not delay issuing the family a voucher for this reason. Nor will MHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and MHA 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, MHA 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(c) (13)]. 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) (15)].

**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].
MHA Policy

When a family ports into its jurisdiction, MHA 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 MHA’s procedures. MHA 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 30 calendar days from the expiration of the initial PHA’s voucher [24 CFR 982.355(c) (13)].

MHA Policy

The receiving PHA’s voucher will expire 30 calendars days from the date of the initial PHA’s voucher.

Voucher Extensions [24 CFR 982.355(c) (14), Notice 2012-42]

Once the receiving PHA issues the portable family a voucher, the receiving PHA’s policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. 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.

MHA Policy

MHA generally will not extend the term of the voucher that it issues to an incoming portable family unless MHA 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.

MHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c) (15)]

If the family submits a request for tenancy approval during the term of the receiving PHA’s voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II. E).

Notifying the Initial PHA

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) (16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose, Notice PIH 2012-42]. (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 2012-42].

**Administering a Portable Family’s Voucher**

**Portability Billing [24 CFR 982.355(e)]**

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA’s program is determined in the same manner as for other families in the receiving PHA’s program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA’s ongoing administrative fee or 100 percent of the receiving PHA’s ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA’s prorated ongoing administrative fee or 100 percent of the receiving PHA’s ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

**PHA Policy**

Unless the PHA negotiates a different amount of reimbursement with the initial PHA, the PHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

**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.

**MHA Policy**

MHA 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 over leased) [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.

**MHA Policy**

MHA will send a copy of the updated HUD-50058 by regular mail at the same time MHA 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 2012-42.

**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)(17)].

In the case of a termination, 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 [HUD 52665, Notice PIH 2012-42].

**PHA Policy**

If MHA elects to deny or terminate assistance for a portable family, MHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. MHA 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 MHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2012-42].

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].
**PHA Policy**

If MHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, MHA 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 MHA 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 [24 CFR 982.355(e) (4)].
CHAPTER 11 - REEXAMINATIONS

INTRODUCTION
MHA 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 MHA 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
MHA 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
MHA 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].

MHA Policy

MHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, MHA 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).

MHA will conduct an annual re exam every three years for fixed income families or fixed income sources.

Fixed income source is income that consist solely of periodic payment at predictable times
- a. Social Security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- b. Federal, State, local, and private pension plans; and
- c. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

If the family moves to a new unit, MHA will perform a new annual reexamination.

MHA 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
MHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of MHA. However, MHAs should give tenants who were not provided the opportunity the option to complete Form HUD-90026 at this time [Notice PIH 2009-36].

MHA Policy

Annual reexaminations will be conducted by mail. Notification of the annual reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to MHA, and the deadline for providing it. Documents will be accepted by mail, by fax, or in-person.

If the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family’s address of record, as well as to any alternate address provided in the family’s file.
An interview will be scheduled if determined to be necessary by MHA or if the family requests assistance in providing information or documentation requested by MHA.

If the family is unable to attend a scheduled interview, the family should contact MHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, MHA will send a second notification with a new interview appointment time.

Families that fail to attend two scheduled interviews without MHA approval will be sent a notice of termination in accordance with policies contained in Chapter 12.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and MHA 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 MHA regarding the family’s income, expenses, and composition [24 CFR 982.551(b)].

MHA Policy

Families will be asked to supply all required information (as described in the reexamination notice) before the deadline specified in the notice. The required information will include an MHA-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.

MHA will notify the family in writing if any required documentation or information is missing. The missing information or documentation must be provided within 14 calendar days of the date MHA notifies the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant’s household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant’s household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)
If the family requests or MHA schedules an in-person interview, families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 14 calendar 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).

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), MHA must issue the family a new voucher, and the family and MHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MHA 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, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student’s eligibility must be 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 MHA 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.

MHA Policy

During the annual reexamination process, MHA 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), MHA will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES
MHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

MHA 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 MHA 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 MHA, 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 MHA 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 MHA.

If the family causes a delay in processing the annual reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by MHA by the date specified, and this delay prevents MHA 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 MHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances MHA must process interim reexaminations to reflect those changes. HUD regulations also permit MHA 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. MHA must complete the interim reexamination within a reasonable time after the family’s request.

This part includes HUD and MHA policies describing what changes families are required to report, what changes families may choose to report, and how MHA will process both MHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION
MHA 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, MHA has limited discretion in this area.

MHA Policy
MHA 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 MHA approval. However, the family is required to promptly notify MHA of the addition [24 CFR 982.551(h)(2)].

MHA Policy
The family must inform MHA of the birth, adoption or court-awarded custody of a child within 14 calendar days.

New Family and Household Members Requiring Approval
With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request MHA 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, MHA 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), MHA must issue the family a new voucher, and the family and MHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].
MHA Policy

The PHA will only allow the following additional household member:

- Child birth by a current household member
- Marriage or domestic partnership
- Adoption or court awarded custody
- Placement of foster child expected to last more than 180 days
- Return of household member from active duty
- Required Live in Aide Attendant
- Reasonable accommodation provided for disabled family members

Members over the age of 18 that are removed from household will not be allowed to be added without meeting the above criteria or under extenuating circumstances that forced the adult member to return back.

Extenuating circumstances can be, but not limited to: illness, divorce, homelessness, disable adult.

Families must request MHA approval to add a new family member, live-in aide, foster child, or foster adult.

This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, or 30 cumulative days, within a twelve-month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by MHA prior to the individual moving in the unit.

MHA will not approve the addition of a new family or household member unless the individual meets MHA’s eligibility criteria (see Chapter 3).

MHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If MHA determines an individual meets MHA’s eligibility criteria as defined in Chapter 3, MHA 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 MHA determines that an individual does not meet MHA’s eligibility criteria as defined in Chapter 3, MHA 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.

MHA will make its determination within 15 calendar days of receiving all information required to verify the individual’s eligibility.
Departure of a Family or Household Member

Families must notify MHA within 14 calendar days 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], MHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

MHA Policy

If a household member ceases to reside in the unit, the family must inform MHA within 14 calendar 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 MHA within 14 calendar days.

Head of the household must certify that family member no longer reside in the unit.

MHA may require evidence to support or verified that family member no longer reside in the unit

Documents may be, but not limited to: current lease, utility bill, proof of insurance with current address, bank accounts, any other evidence that verify the new residence

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because MHA 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, MHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

MHA-Initiated Interim Reexaminations

MHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by MHA. They are not scheduled because of changes reported by the family.

MHA Policy

MHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), MHA will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50% phase-in period).

If the family has reported zero income, the PHA 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), the PHA 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, MHA will conduct an interim reexamination.

MHA 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
MHA 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 MHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

**MHA Policy**

Families are required to report changes that affect their tenant portion within 14 calendar days of the date the change takes effect to ensure continued program eligibility.

The PHA will only conduct interim reexaminations in the following circumstances:

- 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.
- When the family’s current monthly income increases by $200.00 or more.
- When a family which previously reported no income obtains a source of income.
- When a family’s income decreases.
- When family composition changes

If the income decrease is less than 30-days in duration, no interim decrease will be conducted. If the income decreases for a period of longer than 30-days MHA will conduct an interim decrease.

In all other cases, MHA will note the information in the tenant file, but will not conduct an interim reexamination.

Failure to report income changes would constitute a program violation and the family would be retroactively responsible for the increase in the family share of rent regardless of the source.

**11-II.D. PROCESSING THE INTERIM REEXAMINATION**

**Method of Reporting**

**MHA Policy**

The family must notify MHA of changes in writing within 14 calendar days of the change on the MHA provided interim form.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if MHA determines that an interview is warranted, the family may be required to attend.

The PHA will not conduct an interim for increases in incomes

Based on the type of change reported, MHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from MHA. This time frame may be extended for good cause with MHA approval. MHA will accept required documentation by mail, by fax, or in person.

The change will not be process until family has report the change in writing and provide all requested documents.

**Effective Dates**
MHA 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].

**MHA 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 as long as the change was reported and verified prior to the 25th of that month 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.

Families who do not notify MHA within 14 calendar days of a decrease in their income will not be entitled to a rent adjustment retroactively to the month following the date of the decrease. If the family fails to provide all required documentation within 14 calendar days of reporting the income decrease, the interim reexamination is cancelled and the family must restart the interim process.
PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW
After gathering and verifying required information for an annual or interim reexamination, MHA 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 MHA’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 MHA changes its payment standards or the family’s situation changes, new payment standards are applied at the following times:

- If MHA’s payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has decreased, the decreased payment standard will be applied at the second annual reexamination following the effective date of the decrease in the payment standard.
  - If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

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 MHA’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 MHA’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, MHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, MHA must use MHA’s current utility allowance schedule [24 CFR 982.517(d)(2)].
MHA 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
MHA 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 MHA’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).

MHA 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, MHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, MHA may discover errors made by MHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

11-III.E. HOUSING CHOICE VOUCHER PROGRAM—TEMPORARY COMPLIANCE ASSISTANCE
In accordance with HUD NOTICE PIH 2013-03 (HA), HUD allows Housing Choice Voucher Programs to participate in Temporary Compliance Assistance.

The Notice establishes temporary guidelines for public housing agencies (PHAs) in fulfilling certain Public Housing (PH) and Housing Choice Voucher (HCV) program requirements during this period of decreased resources available to PHAs. These guidelines are intended to facilitate the ability of PHAs to continue, without interruption and with minimal burden, the delivery of rental assistance to eligible families in their communities. The temporary provisions established by this Notice will be available to PHAs until March 31, 2014.

The economic downturn that commenced in 2008 and which continues has only increased the need for housing assistance. Increased demand for housing assistance without corresponding increased resources strains the operations of PHAs, and jeopardizes their ability to assist families at a time when families most need housing assistance. Increasing administrative flexibility should allow PHAs to deliver rental assistance more efficiently and expeditiously. Reduction of administrative burden is anticipated to allow PHAs to better manage their programs within current allocated budget authority. The temporary guidelines are also designed to increase efficiencies, minimizing the use of resources for program administration. HUD intends to pursue more permanent changes to increase flexibility and reduce administrative burden and will be informed by PHAs’ use of the temporary compliance provisions of this Notice.
CHAPTER 12 - TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a MHA 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 MHA 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 MHA may consider in lieu of termination, the criteria MHA must use when deciding what action to take, and the steps MHA 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 MHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits MHA 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 MHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]
As a family’s income increases, the amount of MHA subsidy goes down. If the amount of HCV assistance provided by MHA drops to zero and remains at zero for 180 consecutive calendar days, the family's assistance terminates automatically.

MHA 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 MHA 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 MHA terminate the family's assistance at any time.

MHA Policy
The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE
HUD requires MHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2),24 CFR 5.2005(c)(1)]
MHA 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. As discussed further in section 12-II.E, 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.

MHA 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. In such cases MHA 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. In making decisions, MHA will consider the factors described in sections 12-II. D and 12-II.E. Upon consideration of such factors, MHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.
**Failure to Provide Consent [24 CFR 982.552(b)(3)]**

MHA 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)]**

MHA 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 MHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family’s assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

**Failure to Provide Social Security Documentation [24 CFR 5.218(c)]**

MHA must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number or joins the family.

**MHA Policy**

MHA will defer the family’s termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

MHA 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, 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, MHA 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 MHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.
12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires MHA to establish policies that permit MHA to terminate assistance if MHA 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

MHA Policy

MHA 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.

MHA 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.

MHA 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, MHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, MHA 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.

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

Criminal activity that has one of the following elements including but not limited to fraud, embezzlement, stalking, perjury and larceny.
**Felonious criminal** activity refers to any activity that is classify as a felony under Federal, State or Local Law.

**MHA Policy**

MHA 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.

MHA 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, MHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II.E. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance**

[24 CFR 982.552(c), 24 CFR 5.2005(c)]

HUD permits MHA to terminate assistance under a number of other circumstances. It is left to the discretion of MHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12. II. E, the Violence against Women Act of 2005 explicitly prohibits MHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such abuse.

**MHA Policy**

MHA will not terminate a family’s assistance because of the family’s failure to meet its obligations under the Family Self-Sufficiency program, but will terminate the family’s participation in the FSS program.

MHA 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 MHA 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 Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any PHA for amounts 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 MHA or any PHA.
- A family member has engaged in or threatened violent or abusive behavior toward MHA personnel.

*Abusive or violent behavior towards MHA 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, MHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, MHA 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. MHA 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.

**MHA Policy**

If the family is absent from the unit for more than 60 consecutive calendar days, the family’s assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

**Insufficient Funding [24 CFR 982.454]**

MHA may terminate HAP contracts if MHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

**MHA Policy**

MHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If MHA determines there is a shortage of funding, prior to terminating any HAP contracts, MHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, MHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, MHA will inform the local HUD field office. MHA will terminate the minimum number needed in order to reduce HAP costs to a level within MHA’s annual budget authority.

If MHA must terminate HAP contracts due to insufficient funding, MHA will do so in accordance with the following criteria and instructions:

1. MHA’s Chief Financial Officer will review the HCV’s calendar year funding (i.e., utilization tracking spreadsheet, P & L’s, etc.) with Deputy Director and the Chief Financial Officer.
2. MHA will notify the Region VII HUD financial analyst’s office at least 5 months in advance of this shortfall and get direction.
3. MHA will then follow any direction received by the Region VII HUD office.
4. This policy will protect and exclude the elderly and disabled HOH, spouse or co-head tenants from this termination process.
5. MHA will run the HAP payments and will terminate existing HCV tenants based on the following criteria,
a. Families who are not currently under a contract will be terminated. Families or individuals who are searching and have an unsigned contract will be the first terminated.
b. First, families that have committed fraud and/or under repayment agreement and not paying
c. Second criteria, HCV tenants who have the least HAP subsidy being paid out, then,
d. Third criteria, tenants who have received the benefit for the longest period of time, based on their initial move-in date.
   i. Elderly and disabled families will not be terminated
e. MHA will continue working down the HAP subsidy list until we establish that we have adequate HAP assistance funding to cover the remaining HCV vouchers.

6. This group of tenants will then be sent a written notification as soon as possible (at least 30 days in advance) explaining that there is inadequate Housing Assistance funding to continue their assistance, which is due to the “type of condition” (i.e., loss of funding, economic downturn, etc.) and the effective date that the termination of housing assistance will begin; and

7. The written notification will also include this item: “All Housing Choice Voucher tenants that have been terminated under this policy shall have their name automatically returned to the MHA waiting list and be given the maximum preference points, for being displaced due to a government action. This will ensure that as “new” vouchers are issued in the future, this group of terminated HCV tenants will have the opportunity to be served first off the HCV waiting list, thus not having to go through an additional waiting period.
PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW
MHA is required by regulation to terminate a family’s assistance if certain program rules are violated. For other types of offenses, the regulations give MHA the discretion to either terminate the family’s assistance or to take another action. This part discusses the various actions MHA may choose to take when it has discretion, and outlines the criteria MHA 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 MHA terminates assistance depends upon individual circumstances. HUD permits MHA 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, MHA 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)].

MHA 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 MHA request.

Repayment of Family Debts
MHA Policy
If a family owes amounts to MHA, as a condition of continued assistance, MHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from MHA 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 MHA 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)].
MHA Policy

MHA 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 show 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)]**

MHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

**MHA Policy**

MHA 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
- MHA 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, MHA’s decision to terminate the family’s assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**MHA Policy**

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, MHA will determine whether the behavior is related to the disability. If so, upon the family’s request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.
12-II.E. TERMINATIONS RELATED TO THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

This section addresses the protections against termination of assistance that the Violence against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan, where definitions of key VAWA terms are also located.

**VAWA Protections against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discuss under the next heading.) First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, 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 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant’s household, a guest, or another person under the tenant’s control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005 (c) (2)].

Fourth, it gives PHAs the authority to “terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing the victim of the violence [24 CFR 5.2009 (a)].

**Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority MHA to “terminate the assistance of a victim of domestic violence, dating violence, or stalking if MHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if that victim is not evicted or terminated from assistance. [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

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)]

**MHA Policy**

In determining whether a program participant 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, MHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat.

If the participant wishes to contest MHA’s determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

**Documentation of Abuse**

**MHA Policy**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX. D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such case the PHA will document the waiver in the individual’s file.

**Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives MHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to “or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant” [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if MHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that MHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].
MHA Policy

MHA will terminate assistance to a family member if MHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, MHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to MHA by the victim in accordance with this section and section 16-IX.D. MHA will also consider the factors in section 12-II.D. Upon such consideration, MHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If MHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

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)].

MHA Policy

When termination is initiated by the PHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the PHA, 30 days' notice will not be given. In these cases, the notice to terminate will be sent at the time the PHA learns the family has vacated the unit with effective date of family moved out date.

When a family requests to be terminated from the program they must do so in writing to the PHA (see section 12-I.C.). The PHA will then send a confirmation notice to the family and the owner within 15 calendar days of the family’s request, but no later than the termination effective date (as requested by the family).

Whenever the PHA decides to terminate a family’s assistance because of the family’s action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-50066. The PHA will request in writing that a family member wishing to claim protection under VAWA notify the PHA within 10 business days.

If the Notice is not returned by the Post Office, the Notice will be considered deliverable by MHA

If the Notice is returned by Postal Office with a new address a new notice with same effective dates will be sent to family to the new address.

If Notice is returned undeliverable, MHA will proceed with termination.
Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family’s termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family’s termination, as discussed in section 12-I. D, the special notice requirements in section 16-III.D must be followed.

**Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

MHA 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) MHA 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 MHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

**MHA 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; MHA 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, 24 CFR 5.2005 (c), and Form HUD-52641-A, Tenancy Addendum]
During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

**Serious or Repeated Lease Violations**
The owner is permitted to terminate the family’s tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking and the victim is protected from eviction by the Violence against Women Act of 2005 (see section 12.II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, MHA’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.

However, in the case of criminal activity directly related to domestic violence, dating violence, or stalking, if the tenant or an immediate member of the tenant’s family is the victim, the criminal activity may not be construed as cause for terminating the victim’s tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.
Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

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 MHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give MHA a copy of any eviction notice (see Chapter 5).

MHA Policy

If the eviction action is finalized in court, the owner must provide MHA 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), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all 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 Act of 2005 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

12-II.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 MHA has no other grounds for termination of assistance, MHA 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 MHA 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 MHA 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.
  
  **MHA 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 MHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
  
  **PHA Policy**

  If the family misses two scheduled inspections without PHA approval, or does not allow inspections the PHA will consider the family to have violated its obligation to make the unit available for inspection. This will result in termination of the family’s assistance.

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

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

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

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

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

- The family must promptly give MHA 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 MHA. The family must promptly notify MHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request MHA approval to add any other family member as an occupant of the unit.

**MHA Policy**

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. When the PHA has evidence that an unauthorized person is living in the unit, the PHA will consider that the family has violated the family obligations and will terminate assistance. Evidence will be considered but not limited to landlord verification, US Postal Verification, Inspector Findings, Written Complaints supported by further evidence or witnesses.

The family must promptly notify MHA in writing if any family member no longer lives in the unit.

- If MHA has given approval, a foster child or a live-in aide may reside in the unit. MHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when MHA 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.

  **MHA 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 MHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify MHA when the family is absent from the unit.

  **MHA 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 MHA 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 MHA 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 MHA 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 MHA 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]

**PHA Policy**

The PHA will terminate assistance at the time the PHA discover that the family or owner has failed to report a familial relationship exist between owner and family, except when has been previously approved by MHA.
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 MHA’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 MHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including MHA 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 MHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for MHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in MHA’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, MHA s must identify and recruit new owners to participate in the program.

PHA Policy

MHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. MHA 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
- Quarterly newsletters
- 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, MHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

PHA Policy

All MHA 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.

MHA will provide owners with a handbook that explains the program, including HUD and MHA policies and procedures, in easy-to-understand language.

MHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated MHA contact person.
Coordinating inspection and leasing activities between MHA, 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 MHA to aid families in their housing search by providing the family with a list of landlords or other parties known to MHA who may be willing to lease a unit to the family, or to help the family find a unit. Although MHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to MHA 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)].

MHA 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 MHA. MHA 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. MHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program’s requirements. When submitted to MHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner’s proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.
The selected unit must meet HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. MHA 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.

MHA 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, MHA 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.

MHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]
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 MHA 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 MHA), 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]
• Complying with the Violence against Women Reauthorization Act of 2005 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1).

13-I.D. OWNER QUALIFICATIONS
MHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where MHA 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)]
MHA must not approve the assisted tenancy if MHA 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 MHA 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]
MHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. MHA 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]
MHA 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 MHA (except a participant commissioner)
• Any employee of MHA, or any contractor, subcontractor or agent of MHA, 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. MHA must submit a waiver request to the appropriate HUD Field Office for determination. Any waiver request submitted by MHA 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, MHA, 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 MHA or assistance under the HCV program for an eligible MHA 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 MHA, description of the nature of the investment, including disclosure/divestiture plans.

Where MHA has requested a conflict of interest waiver, MHA may not execute the HAP contract until HUD has made a decision on the waiver request.

**MHA Policy**

In considering whether to request a conflict of interest waiver from HUD, MHA 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 MHA, at MHA’s discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If MHA 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].

**MHA Policy**

MHA will refuse to approve a request for tenancy if MHA 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 MHA, 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, MHA 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, MHA may, on a case-by-case basis, choose to approve an owner.

**Legal Ownership of Unit**

The following represents MHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

**MHA Policy**

MHA 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). If an individual or an entity is managing a property for the owner a Management Agreement must be presented before checks will be issued to the management company.
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 MHA.

The owner must cooperate with MHA and with HUD in conducting any equal opportunity
compliance reviews and complaint investigations in connection with the HCV program and the
HAP contract with MHA.

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 MHA 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 MHA’s obligations. Under the HAP contract, MHA 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 MHA’s HCV program.

If MHA has given approval for the family of the assisted tenancy, the owner and MHA 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 MHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, MHA s 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. MHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, MHA s have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by MHA is deemed received by the owner (e.g., upon mailing by MHA or actual receipt by the owner).

PHA Policy
MHA has not adopted a policy that defines when the housing assistance payment by MHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:
- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- 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 MHA. 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, MHA 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. MHA 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 MHA is credited toward the monthly rent to owner under the family’s lease. The total of the rent paid by the tenant, plus MHA 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 MHA 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 MHA, the excess amount must be returned immediately. If MHA determines that the owner is not entitled to all or a portion of the HAP, MHA 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 MHA, 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)]**

MHA 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 MHA 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.

MHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond MHA’s control. In addition, late payment penalties are not required if MHA 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)]

MHA 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, MHA 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.

PHA Policy

The owner must inform MHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform MHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide MHA 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, MHA 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 MHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If MHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.
MHA 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. MHA may also obtain additional relief by judicial order or action.

MHA 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. MHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

**PHA Policy**

Before MHA invokes a remedy against an owner, MHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, MHA 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, MHA 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-I.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;
- MHA terminates the HAP contract;
- MHA 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 MHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by MHA;
- The Annual Contributions Contract (ACC) between MHA and HUD expires
- MHA elects to terminate the HAP contract.

**PHA Policy**

MHA 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-I.D.

If MHA terminates the HAP contract, MHA 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].

PHRA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which MHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to MHA 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 MHA.

An owner under a HAP contract must notify MHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by MHA.

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 MHA finds acceptable. The new owner must provide MHA with a copy of the executed agreement.

MHA 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.

MHA 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 15 calendar days of receiving the owner’s request, MHA will inform the current owner in writing whether the assignment may take place.
The new owner must provide a written certification to MHA 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;

Direct Deposit Authorization Agreement

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, MHA 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, MHA will process the leasing in accordance with the policies in chapter 9.
CHAPTER 14 - PROGRAM INTEGRITY

INTRODUCTION

MHA is committed to ensuring that subsidy funds made available to MHA 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 MHA 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 EIV system to provide PHA’s with a powerful tool for preventing error 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 participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members to 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.

PHA Policy

MHA anticipates that the vast majority of families, owners, and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors and abuse.

To ensure that MHA’s HCV program is administered effectively and according to the highest ethical and legal standards, MHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

MHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

MHA will provide each applicant and participant with a copy of “Is Fraud Worth It?” (HUD-1141-OIG) which, explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the EIV system published by HUD as an attachment to Notice PIH 2010-19. In addition, the PHA will require the HOH to acknowledge receipt of the guide by signing a copy for retention in the family file.

MHA will place a warning statement about the penalties for fraud (as described in 18, U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family, owner and providers of third party information.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

MHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

MHA will provide each PHA 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. Program participants will be treated as innocent and a hearing will be scheduled to provide further investigation.
14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, MHA 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 MHA 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).

**MHA Policy**

In addition to the SEMAP quality control requirements, MHA will employ a variety of methods to detect errors and program abuse.

- MHA 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.
- MHA 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 MHA of errors and potential cases of program abuse.

**MHA Policy**

MHA 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 MHA’s error detection and abuse prevention efforts.

**Individual Reporting of Possible Errors and Program Abuse**

**MHA Policy**

MHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

Program participants will be treated respectfully and fairly before, during and after an investigation.
When MHA Will Investigate

MHA Policy

MHA 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 MHA 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.

MHA 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]

MHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, MHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

MHA Policy

MHA 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 show 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 MHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed MHA, 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 MHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

MHA Policy

In the case of family-caused errors or program abuse, MHA 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, MHA 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

MHA Policy

MHA will inform the relevant party in writing of its findings and remedies within 15 calendar 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 MHA 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, MHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

MHA 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 MHA or MHA 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 MHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

MHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. MHA 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, MHA will terminate the family’s assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family [HCV GB p. 22-12]

MHA Policy

MHA 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 MHA [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)].

MHA Policy

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by MHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to MHA Board of Commissioners, employees, contractors, or other PHA 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 MHA 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

MHA 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 MHA may, at its discretion, impose any of the following remedies.

- MHA may require the family to repay excess subsidy amounts paid by MHA, as described earlier in this section.
- MHA 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).
- MHA may deny or terminate the family’s assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- MHA 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 MHA
In all cases of overpayment of subsidy caused by the owner, the owner must repay to MHA any excess subsidy received. MHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, MHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

MHA Policy
In cases where the owner has received excess subsidy, MHA 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 MHA [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:

  MHA Policy
  Any of the following will be considered evidence of owner program abuse:

  Charging the family rent above or below the amount specified by MHA
  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 MHA Board of Commissioners, employees, contractors, or other PHA representatives
  Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to MHA
  Residing in the unit with an assisted family
Remedies and Penalties

When MHA determines that the owner has committed program abuse, MHA 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. MHA- 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 MHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in MHA personnel policy.

MHA-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 MHA

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].

MHA Reimbursement to Family or Owner

MHA 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 MHA’s administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

MHA Policy

Any of the following will be considered evidence of program abuse by MHA 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 MHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of PHA 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

MHA Policy

When MHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, MHA 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

MHA may retain a portion of program fraud losses that MHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

MHA 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 MHA 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 MHA 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 MHA related to the collection, these costs must be deducted from the amount retained by MHA.
CHAPTER 15  - SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

INTRODUCTION

MHA may permit a family to use any of the special housing types discussed in this chapter. However, MHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that MHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. MHA 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.

MHA 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 MHA’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 MHA, a family member or live-in aide may reside with the elderly person or person with disabilities. MHA 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), MHA 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), MHA 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

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 MHA, a live-in aide may live in the group home with a person with disabilities. MHA 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 MHA’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 prorated share of the payment standard for the group home size. The prorated 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 prorated 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 prorated portion of the reasonable rent for the group home. In determining reasonable rent, MHA 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 MHA, a live-in aide may reside with the family to care for a person with disabilities. MHA 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 prorate share of the payment standard for the shared housing unit size.  

The prorated 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 prorate 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, MHA should consider whether sanitary and food preparation areas are private or shared.  

15-IV.C. HOUSING QUALITY STANDARDS  

MHA 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 MHA 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. MHAs 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. MHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance
MHA 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 MHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. MHA 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-VLD. HOUSING QUALITY STANDARDS
Under either type of occupancy described in 15-VI. An 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 must be an existing participant in the HCV program. MHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There is one form of homeownership assistance MHA may offer under this option: monthly homeownership assistance payments...

MHA may offer 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 MHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. MHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. MHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where MHA has otherwise opted not to implement a homeownership program.

MHA 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. MHA may also establish additional initial requirements as long as they are described in MHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
  - Completion of Initial Lease Term – A period of not less than 12 months’ continual eligibility under the Housing Choice Voucher Program must have been completed. Applicants for HCV and new participants are not eligible to neither apply for nor participate in the HCV Home Ownership Program.
- Family members may not owe any debt to the MHA or another housing authority.
- 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. MHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not MHA'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, MHA must grant an exemption from the employment requirement if MHA 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).

Minimum down payment requirements.

a) The family must demonstrate the ability to provide a minimum of three percent (3%) down payment on the home.

b) At least one percent (1%) of this down payment must come from the family’s personal resources. Gift funds are permitted with documentation of the source.

c) FSS graduates may use FSS escrow towards this requirement. Families with an Individual Development Account (IDA) or an Individual Development Empowerment Account (IDEA) through MHA or another agency may count these funds towards the minimum down payment.

d) The minimum down payment requirement may be waived for families with a disabled family member, if they qualify for special loan products offered by the lender as a reasonable accommodation for a disability.

e) The family may complete up to 500 hours of sweat equity (500 hours at $10.00 per hour = $5000) in lieu of down payment when purchase is through an affordable program such as Habitat for Humanity.

15-VIL.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), MHA may limit homeownership assistance to families or purposes defined by MHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in MHA administrative plan.

If MHA limits the number of families that may participate in the homeownership option, MHA must establish a system by which to select families to participate.

The homeownership option is limited to 1% of the total Voucher Program allocation in any calendar year. This limit does not apply to disabled families. If applications exceed the 1% of the total Voucher Program allocation per year, participants in the Family Self-Sufficiency (FSS) program shall receive a priority for participation in the Home Ownership Program.

15-VILD. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, MHA 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 MHA 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.
• Floating Home and Berth
• For MHA-owned units all of the following conditions must be satisfied:
  - MHA informs the family, both orally and in writing, that the family has the right to purchase any
    eligible unit and a MHA-owned unit is freely selected by the family without MHA pressure or
    steering;
  - The unit is not ineligible housing;
  - MHA 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 MHA provided financing. All of these actions must be completed in
    accordance with program requirements.

MHA must not approve the unit if MHA has been informed that the seller is debarred, suspended, or
subject to a limited denial of participation.

15-VII.E. ADDITIONAL MHA 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. MHA 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 MHA, MHA may extend the
search period or allow the family to resume their rental assistance.

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 MHA. HUD
suggests the following topics for MHA-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 MHA 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.

MHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

MHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If MHA offers a program of ongoing counseling for participants in the homeownership option, MHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If MHA does not use a HUD-approved housing counseling agency to provide the counseling, MHA should ensure that its counseling program is consistent with the counseling provided under HUD’s Housing Counseling program.

15.-VII.G. APPROVAL FOR PARTICIPATION

Once approved for participation in the HCV Homeownership Program, the family will be issued an eligibility letter and subject to the following requirements.

- The family must execute a statement in which the family agrees to comply with all family obligations under the Homeownership Option.
- It is the family’s responsibility to find a home that meets the criteria for voucher homeownership assistance.
- The family must employ a licensed State of California, Department of Real Estate agent to assist with the search and purchase of a home on their behalf. MHA will certify agent is in good standing with the State of California.
- The family must report its progress towards locating and purchasing a unit if requested by the MHA.
- If the family is unable to locate an acceptable unit for purchase, the family may continue to receive the HAP for HCV rental assistance.
15-VII.H. HOME INSPECTIONS, CONTRACT OF SALE, AND MHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections/HCV Housing Quality Standards.
MHA may not commence monthly homeownership assistance payments for a family until MHA has inspected the unit and has determined that the unit passes HQS.

Annual HQS inspections are not a requirement for the HCV Homeownership Program. However, MHA reserves the right to conduct Annual inspections at the present time.

Independent inspection
An independent professional inspector selected by and paid for by the family must also inspect the unit. MHA may not require the family to use an independent inspector selected by MHA. The independent inspector may not be a MHA employee or contractor, or other person under control of MHA. However, MHA may establish standards for qualification of inspectors selected by families under the homeownership option.

MHA 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.

The unit must be inspected by a certified independent inspector designated and paid by the family, and pre-approved by MHA. This inspection must cover, at a minimum, all major building systems and components including:

- Foundation and structure
- Housing interior and exterior
- Roofing
- Plumbing
- Electrical systems
- Heating systems

MHA must receive and approve a copy of the inspection report before HOP assistance will commence. MHA may disapprove a unit for assistance under HCV Homeownership because of information obtained through the inspection report, even if the unit passes the HQS inspection.

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 MHA 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, MHA may deny approval of a seller for the same reasons a MHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

**15-VII.I. FINANCING [24 CFR 982.632]**

MHA 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. MHA must establish policies describing these requirements in the administrative plan.

MHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family’s ability to secure favorable financing terms.

The family must allow MHA to review the terms of the mortgage secured to purchase the property before close of escrow. The MHA may disapprove proposed financing, refinancing or other debt if the MHA determines that the debt is unaffordable to the family or if the MHA determines that the lender or the loan terms do not meet MHA or HUD qualifications. The family must locate and qualify for a mortgage that meets the following requirements:

- The mortgage must be determined to be affordable by the MHA. The MHA may take into account child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the MHA to determine affordability of the family’s share of the housing costs. Homeownership expenses will be calculated as indicated in this action plan.
- The family’s portion of the monthly homeownership expenses may not exceed forty percent (40%) of the family’s adjusted gross monthly income.
- Short-term first mortgages with a large final “balloon payment” will not be allowed.
- Adjustable mortgages will not be allowed.
- Interest only mortgages will not be allowed.
- The MHA will consider seller financed mortgages on a case-by-case basis.
- The family may not obtain private first mortgage financing from a family member or any other private source.
- The mortgage must be provided, insured, or guaranteed by the state or Federal government and comply with secondary mortgage market underwriting standards; or the mortgage must comply with generally accepted private sector underwriting standards.

**15-VII.J. 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, MHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to MHA 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 MHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by MHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify MHA before moving out of the home.
- The family must notify MHA 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.K. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

The time limits below apply to all family members having an ownership interest in the unit during the time that homeownership payments are made; and, the spouse of any member of the household who has an ownership interest in the unit during the time that homeownership payments are made.

All families, including families that become elderly during the term of the homeownership assistance are subject to the following maximum terms:

- Initial mortgage term of twenty (20) years or longer. The maximum term of homeownership assistance will be fifteen (15) years.
- Initial mortgage term of less than twenty (20) years. The maximum term of homeownership assistance will be ten (10) years.

Elderly and disabled families are assisted for as long as they remain in the HCV Homeownership Program. If, during the course of homeownership assistance, the family ceases to qualify as elderly or disabled, the maximum term as defined in Section 15-VII.K will become applicable from the date homeownership assistance commenced. The MHA will provide a family at least six (6) months of homeownership assistance after the maximum term becomes applicable provided the family is otherwise eligible to receive homeownership assistance.

If a family becomes over-income prior to the maximum term of homeownership the family has 180 days to return to the HCV Homeownership Program in the case of an extreme hardship. Involuntary loss of employment, illness, or death of a family member, which prevents adult members of the household to remain employed are examples of an extreme hardship. The MHA, at its discretion, will determine length of assistance based on the family’s circumstances.

The initial maximum term limit applies if the family receives assistance for more than one home purchase, even if received from another housing authority.
15-VII.L. CALCULATION OF 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, MHA 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.

1. **Occupancy of home.**
   The HAP will only be paid while the family resides in the home. If the family moves out of the home, the MHA will discontinue payment of the HAP commencing with the month after the family moves out.

   a) Amount of monthly homeownership assistance payment. While the family is residing in the home, the MHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the lower of the payment standard minus the total tenant payment; or the family's monthly homeownership expenses minus the total tenant payment.

   b) Initial Payment Standard. The initial payment standard for a family is the lower of the payment standard for the family unit size (Voucher size); or the payment standard for the size of the home.

   Payment Standard for subsequent reexaminations. Reexaminations (interims and annual reexaminations) will use a Payment Standard that is the greater of the payment standard (as determined in accordance with the initial payment standard at the commencement of homeownership assistance; or the Payment Standard in effect at the time of the reexamination as determined using the requirements of this action plan. At no time will the MHA use a Payment Standard less than the initial Payment Standard at the close of escrow. The initial payment standard shall not be adjusted even if there is a subsequent decrease in family size.

   c) On a case by case basis, MHA may approve a payment standard, up to 110% of the published fair market rent limit, where warranted (if the MHA payment standards are set below 110% of the FMR in accordance with 24 CFR Section 982.505(d)) as a reasonable accommodation for a family that includes a person with a disability. The HUD field office can approve exception payment standards above 110% to 120% of the FMR as a reasonable accommodation in accordance with 24 CFR Section 982.503(c)2(ii) per NOTICE PIH 2008-13(HA) Re: Requests for Exception Payment Standards for Persons with Disabilities as a Reasonable Accommodation

MHA may pay the homeownership assistance payments directly to the family, or at MHA’s discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, MHA 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, MHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

MHA must adopt policies for determining the amount of homeownership expenses to be allowed by MHA in accordance with HUD requirements.
Homeownership expenses (not including cooperatives) only include amounts allowed by MHA 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;
- MHA allowance for maintenance expenses;
- MHA allowance for costs of major repairs and replacements;
- MHA 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 MHA 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 MHA 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;
- MHA allowance for maintenance expenses;
- MHA allowance for costs of major repairs and replacements;
- MHA 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 MHA 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. M. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Families issued a homeownership voucher may exercise portability to purchase a unit in the jurisdiction of another housing authority.

1. Incoming portable families:
   a) may purchase a unit within the jurisdiction of the MHA, provided the MHA is accepting new homeownership families at the time of the purchase.
b) must meet the education, counseling, and all other HCV Homeownership Program requirements of the MHA.

c) must be certified by initiating HA that the family is in good standing.

The MHA must promptly notify the initial HA if the family has purchased an eligible unit under the program.

2. **Outgoing portable families:**

a) may purchase a unit within the receiving jurisdiction, provided they are accepting new homeownership families at the time of the purchase.

b) must meet the education, counseling, and all other HCV Homeownership Program requirements of the receiving Housing Authority.

c) must be certified by MHA that the family is in good standing with the Housing Authority.

d) The receiving PHA must promptly notify the MHA, 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 receiving HA.

15-VII.N. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

MHA 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, MHA 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 MHA’s policy regarding number of moves within a 12-month period.

MHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and

- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD’s designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.O. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, MHA 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).

MHA 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.

MHA 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 MHA’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 MHA. This part describes policies for recovery of monies that MHA has overpaid on behalf of families, or to owners, and describes the circumstances under which MHA 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 MHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes MHA’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 MHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence and stalking; and maintaining the confidentiality of information obtained from victims.
PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

MHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a MHA fiscal year. If funds in the administrative fee reserve are not needed to cover MHA administrative expenses, MHA may use these funds for other housing purposes permitted by Federal, State and local law.

If MHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct MHA 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 MHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

**PHA 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 MHA’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 MHA to adapt the program to local conditions. This part discusses how MHA 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).

**PHA Policy**

Copies of the payment standard and utility allowance schedules are available for review in MHA’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.

MHA 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 MHA 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.

MHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within MHA’s jurisdiction, and for each unit size within each of the FMR areas. For each unit size, MHA 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, MHA 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, MHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require MHA to make further adjustments if it determines that rent burdens for assisted families in MHA’s jurisdiction are unacceptably high [24 CFR 982.503(g)].

**PHA Policy**

MHA 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” MHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:
**Funding Availability:** MHA 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. MHA 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, MHA will consider increasing the payment standard. In evaluating rent burdens, MHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** MHA 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:** MHA 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:** MHA 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:** MHA 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 made effective every year after the final FMRs are published on an effective date that minimizes the number of retroactive rent adjustments MHA will have to make.

MHA may change the payment standard at any time during the year based on funding availability.

**Exception Payment Standards [982.503(c)]**

MHA 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 MHA 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), 24 CFR 982.505(d), Notice PIH 2010-56]**

Unit-by-unit exceptions to MHA’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 MHA’s payment standard schedule.
When needed as a reasonable accommodation, MHA 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]. MHA 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.

**PHA 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, MHA 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, MHA may request a “success rate payment standard” that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows MHA 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, MHA 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;
- MHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- MHA 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, MHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of MHA’s jurisdiction within the FMR area.

**Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]**

MHA 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 MHA-established utility allowance schedule is used in determining family share and MHA subsidy. MHA 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, MHA 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, MHA 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 MHA 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.

**Reasonable Accommodation**

HCV program regulations require MHA to approve a utility allowance amount higher than shown on MHA’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, MHA will approve an allowance for air-conditioning, even if MHA 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**

MHA 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.

MHA 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 MHA 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 60, no. 127 (3 July 1995): 34690).

Decisions Subject to Informal Review
MHA 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 MHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are not required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by MHA
- General policy issues or class grievances
- A determination of the family unit size under MHA subsidy standards
- MHA determination not to grant approval of the tenancy
- MHA determination that the unit is not in compliance with the HQS
- MHA determination that the unit is not in accordance with the HQS due to family size or composition

MHA Policy
MHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on MHA 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)]
MHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for MHA 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

MHA Policy

A request for an informal review must be made in writing and delivered to MHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of MHA’s denial of assistance.

MHA must schedule and send written notice of the informal review within 15 calendar days of the family’s request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of MHA.

Informal Review Decision [24 CFR 982.554(b)]

MHA must notify the applicant of MHA’s final decision, including a brief statement of the reasons for the final decision.

MHA Policy

In rendering a decision, MHA 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. MHA 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, MHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, MHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

MHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 15 calendar 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]
PHAs must offer an informal hearing for certain MHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to MHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether MHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and MHA policies.

MHA 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 MHA 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 MHA utility allowance schedule
- A determination of the family unit size under MHA’s subsidy standards
- A determination to terminate assistance for a participant family because of the family’s actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under MHA 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.
- A determination to deny the request of a reasonable accommodation.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by MHA
- General policy issues or class grievances
- Establishment of MHA schedule of utility allowances for families in the program
- A MHA determination not to approve an extension or suspension of a voucher term
- A MHA determination not to approve a unit or tenancy
- A MHA determination that a unit selected by the applicant is not in compliance with the HQS
- A MHA determination that the unit is not in accordance with HQS because of family size
- A determination by MHA to exercise or not to exercise any right or remedy against an owner under a HAP contract
MHA Policy

MHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

Housing Assistance Payments will continue until decision is made by Hearing Officer and termination is final.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When MHA makes a decision that is subject to informal hearing procedures, MHA 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, MHA 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 MHA’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.

MHA Policy

In cases where MHA 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 MHA.

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 MHA’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 MHA’s hearing procedures.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, MHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

MHA Policy

A request for an informal hearing must be made in writing and delivered to MHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of MHA’s decision or notice to terminate assistance.
MHA must schedule and send written notice of the informal hearing to the family within 15 calendar 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, MHA 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 MHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. MHA 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 MHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any MHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If MHA does not make the document available for examination on request of the family, MHA may not rely on the document at the hearing.

MHA hearing procedures may provide that MHA must be given the opportunity to examine at MHA offices before the hearing, any family documents that are directly relevant to the hearing. MHA must be allowed to copy any such document at MHA’s expense. If the family does not make the document available for examination on request of MHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

**MHA 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 MHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

MHA must be given an opportunity to examine at MHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, MHA 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 MHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

MHA Policy

The hearing officer may be any current employee other than the person who made or approved the decision or a subordinate of the person who made or approved the decision, or any MHA Management Staff, Legal Consultant or a Contractor from other PHA.

- Staff

Attendance at the Informal Hearing

MHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- MHA representative(s) and any witnesses for MHA
- The participant and any witnesses for the participant
- The participant’s counsel or other representative
- Any other person approved by MHA 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 MHA’s hearing procedures [24 CFR 982.555(4)(ii)].

MHA 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)] MHA 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.

MHA 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 MHA. 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 MHA 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 decision must be furnished promptly to the family.

**MHA Policy**

In rendering a decision, the hearing officer will consider the following matters:

**MHA Notice to the Family**: The hearing officer will determine if the reasons for MHA’s decision are factually stated in the Notice.

**Discovery**: The hearing officer will determine if MHA and the family were given the opportunity to examine any relevant documents in accordance with MHA policy.

**PHA Evidence to Support MHA 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 MHA’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 MHA policies. If the grounds for termination are not specified in the regulations or in compliance with MHA policies, then the decision of MHA will be overturned.

The hearing officer will issue a written decision to the family and MHA no later than 15 calendar 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 MHA 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 show 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 MHA’s decision.

**Order**: The hearing report will include a statement of whether MHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct MHA to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct MHA to restore the participant’s program status.

**Procedures for Rehearing or Further Hearing** (Appeal)

**MHA 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 MHA will take effect and another hearing will not be granted.

In addition, within 15 calendar days after the date the hearing officer’s report is mailed to MHA and the participant, MHA 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. The only grounds on which an appeal will be granted are;

- There was a violation of the process outlined in this procedure, or
- The decision is not supported by the findings, or
- The findings are not supported by the evidence

It shall be within the sole discretion of MHA 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. The following evidence will be considered:

- The tape recording or written notes of the grievance procedure,
- All documents that were presented at the hearing,
Either or both parties may present a written brief to the Appellate Officer outlining why the decision should or should not be overturned.

All documents and briefs must be presented to the officer within 14 calendar days of notification that the case will be reviewed.

The Appellate Officer will have 15 calendar days to review the case and render a written decision, which shall consist of the following:

- The name of the parties, and
- A brief description of the issues on appeal,
- The decision of the Appellate Officer, and
- The reason for the decision, and
- A description of the Participant's right to seek other legal remedies.

The results of the hearing on the appeal do not in any way preclude the Participant from proceeding with any other legal remedies that may be open to him/her.

**MHA Notice of Final Decision [24 CFR 982.555(f)]**

MHA is not bound by the decision of the hearing officer for matters in which MHA 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 MHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, MHA must promptly notify the family of the determination and the reason for the determination.

**MHA Policy**

MHA 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 MHA’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 MHA 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 MHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.
Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with MHA 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 MHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, MHA must notify the family of the results of the USCIS verification. The family will have 14 calendar 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 MHA with a copy of the written request for appeal and the proof of mailing.

MHA Policy

MHA will notify the family in writing of the results of the USCIS secondary verification within 15 calendar days of receiving the results.

The family must provide MHA with a copy of the written request for appeal and proof of mailing within 14 calendar 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 MHA, of its decision. When the USCIS notifies MHA of the decision, MHA must notify the family of its right to request an informal hearing.

MHA Policy

MHA will send written notice to the family of its right to request an informal hearing within 14 calendar 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 MHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of MHA 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**

MHA 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 MHA 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.

**MHA 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 MHA 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 MHA, and to confront and cross-examine all witnesses on whose testimony or information MHA 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 MHA, as may be agreed upon by the two parties.

**Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. MHA may, but is not required to provide a transcript of the hearing.

**PHA Policy**

MHA will not provide a transcript of an audio taped hearing.
**Hearing Decision**

MHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 15 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 MHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of MHA 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)]**

MHA must retain for a minimum of 5 years the following documents that may have been submitted to MHA by the family, or provided to MHA as part of the USCIS appeal or MHA 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 MHA

16-IV.A. OVERVIEW
PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to MHA [24 CFR 982.54]. This part describes MHA’s policies for recovery of monies that have been overpaid on behalf of families, or to owners.

MHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, MHA holds the owner or participant liable to return any overpayments to MHA.

MHA 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 MHA, MHA 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-IV.B. REPAYMENT POLICY

Owner Debts to MHA

MHA Policy

Any amount due to MHA by an owner must be repaid by the owner within 30 days of MHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, MHA 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 MHA 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, MHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to MHA

MHA Policy

Any amount due to MHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, MHA 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, MHA will terminate the assistance upon notification to the family and pursue other modes of collection.
Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to MHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

**Down Payment Requirement**

* MHA Policy

Upon the execution of a repayment agreement, the owner or family must pay at least 10 percent of the balance owed to MHA.

**Payment Thresholds**

* MHA Policy

Amounts under $1,000 must be repaid within 12 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $3,000 and $20,000 must be repaid within 36 months.

Amounts over $20,000 will be referred to Federal or State Authorities for criminal prosecution.

If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

- The amount owed by the family to the PHA
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control
- The family’s current and potential income and expenses
- The family’s current family share, as calculated under 24 CFR 982.515
- The family’s history of meeting its financial responsibilities

**Execution of the Agreement**

* MHA Policy

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

**Due Dates**

* MHA 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

MHA Policy

If a full monthly payment is not received by the end of the month of the date due, and prior approval for the missed payment has not been given by MHA, MHA will consider the family agreement delinquent. Notice of missed payment will be given to the family, if the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement.

If a family misses 3 payments in a 12-month period, the repayment agreement will be considered in default, and MHA will terminate assistance upon written notification to the family and owner.

No Offer of Repayment Agreement

MHA Policy

MHA 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 $20,001 to be refer for Federal or State 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 MHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each MHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect MHA 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, MHAs 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 MHA board resolution and signed by MHA executive director. If MHA 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 MHA fiscal year. HUD will assess such MHAs annually if MHA 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 PHA’s SEMAP certification, HUD will rate 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. MHA 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 MHA’s certification on the indicator due to MHA'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.

<table>
<thead>
<tr>
<th>SEMAP Indicators</th>
<th>Maximum Score: 15</th>
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<tbody>
<tr>
<td>Indicator 1: Selection from the waiting list</td>
<td></td>
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<tr>
<td>Maximum Score: 15</td>
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<tr>
<td>• This indicator shows whether PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether PHA follows these policies when selecting applicants for admission from the waiting list.</td>
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</tr>
<tr>
<td>• Points are based on the percent of families that are selected from the waiting list in accordance with PHA’s written policies, according to PHA’s quality control sample.</td>
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<tr>
<th>Indicator 2: Rent reasonableness</th>
<th>Maximum Score: 20</th>
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<tr>
<td>Maximum Score: 20</td>
<td></td>
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<tr>
<td>• This indicator shows whether 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</td>
<td></td>
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<tr>
<td>• Points are based on the percent of units for which PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to PHA’s quality control sample.</td>
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<tr>
<th>Indicator 3: Determination of adjusted income</th>
<th>Maximum Score: 20</th>
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<tbody>
<tr>
<td>Maximum Score: 20</td>
<td></td>
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<tr>
<td>• This indicator measures whether 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.</td>
<td></td>
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<tr>
<td>• Points are based on the percent of files that are calculated and verified correctly, according to PHA’s quality control sample.</td>
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### Indicator 4: Utility allowance schedule

**Maximum Score: 5**

- This indicator shows whether PHA maintains an up-to-date utility allowance schedule.
- Points are based on whether PHA has reviewed the utility allowance schedule and adjusted it when required, according to PHA’s certification.

### Indicator 5: HQS quality control inspections

**Maximum Score: 5**

- This indicator shows whether a MHA supervisor re-inspects a sample of units under contract during 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 re-inspections were completed, according to 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 PHA corrects all HQS deficiencies in accordance with required time frames, according to 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 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 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 PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to PHA’s certification.
<table>
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<tr>
<th>Indicator 8: FMR limit and payment standards</th>
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<tbody>
<tr>
<td><strong>Maximum Points: 5 points</strong></td>
</tr>
<tr>
<td>• This indicator shows whether PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in PHA’s jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.</td>
</tr>
<tr>
<td>• Points are based on whether PHA has appropriately adopted a payment standard schedule(s), according to PHA’s certification.</td>
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<tr>
<th>Indicator 9: Annual reexaminations</th>
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<tr>
<td><strong>Maximum Points: 10</strong></td>
</tr>
<tr>
<td>• This indicator shows whether PHA completes a reexamination for each participating family at least every 12 months.</td>
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<tr>
<td>• Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.</td>
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<tr>
<th>Indicator 10: Correct tenant rent calculations</th>
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<tbody>
<tr>
<td><strong>Maximum Points: 5</strong></td>
</tr>
<tr>
<td>• This indicator shows whether PHA correctly calculates the family’s share of the rent to owner.</td>
</tr>
<tr>
<td>• Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.</td>
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<tr>
<th>Indicator 11: Pre-contract HQS inspections</th>
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<tbody>
<tr>
<td><strong>Maximum Points: 5</strong></td>
</tr>
<tr>
<td>• This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.</td>
</tr>
<tr>
<td>• 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.</td>
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<tr>
<th>Indicator 12: Annual HQS inspections</th>
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<tr>
<td><strong>Maximum Points: 10</strong></td>
</tr>
<tr>
<td>• This indicator shows whether PHA inspects each unit under contract at least annually.</td>
</tr>
<tr>
<td>• 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.</td>
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</tbody>
</table>
**Indicator 13: Lease-up**

**Maximum Points: 20 points**

- This indicator shows whether 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 PHA, according to data from MHA’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 PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

**Success Rate of Voucher Holders**

**Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn’t effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**De-concentration Bonus Indicator**

**Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.
PART VI: RECORD KEEPING

16-VI.A. OVERVIEW
MHA 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, MHA 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, MHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, MHA 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 MHA budget and financial statements for the program;
- Records to document the basis for MHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

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.

**MHA Policy**

All applicant and participant information will be kept in a secure location and access will be limited to authorized MHA staff.

MHA 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 MHA 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.

MHA Policy
Prior to utilizing HUD’s EIV system, MHA will adopt and implement EIV security procedures required by HUD.

Criminal Records
MHA may only disclose the criminal conviction records which MHA receives from a law enforcement agency to officers or employees of MHA, or to authorized representatives of MHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

MHA must establish and implement a system of records management that ensures that any criminal record received by MHA 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 MHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

MHA must establish and implement a system of records management that ensures that any sex offender registration information received by MHA 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 MHA 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 MHA other than under 24 CFR 5.905.

Medical/Disability Records
MHAs are not permitted to inquire about the nature or extent of a person’s disability. MHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If MHA receives a verification document that provides such information, MHA should not place this information in the tenant file. MHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, or Stalking
For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, or stalking, see section 16-IX.E.
PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW
MHA 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 MHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]
MHA 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.

MHA Policy
MHA 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, MHA 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 MHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), MHA 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, MHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, MHA 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.

MHA 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, MHA is not providing such a report.
PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW
The HCV regulations allow MHAs 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]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact MHA’s ability to issue vouchers to families on the waiting list. This part discusses the methodology MHA will use to determine whether or not MHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY
MHA Policy

MHA 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 MHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, MHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if MHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, MHA will be considered to have insufficient funding.
PART IX: VIOLENCE AGAINST WOMEN ACT OF 2005 (VAWA):
NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.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 apply in conjunction with 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-IX.B. DEFINITIONS [24 CFR 5.2003], 42 USC 13925
As used in VAWA:

- The term bifurcate means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse or intimate partner 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 affiliated individual means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
- Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

- The term sexual assault means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

- The term stalking means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

16-IX.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.

MHA Policy

MHA 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.
MHA Policy

MHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I. B) and at annual reexamination. The PHA 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, Sexual Assault 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.

PHA Policy

The PHA 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, Sexual Assault and Stalking.

16-IX.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, Sexual Assault or Stalking), which must include the name of the perpetrator

2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.
The 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].

**MHA Policy**

Any request for documentation of domestic violence, dating violence, or stalking will be in writing 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.

MHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA 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.

**MHA Policy**

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the PHA 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 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).

**MHA Policy**

If the PHA accepts an individual’s statement or other corroborating evidence of domestic violence, dating violence, or stalking, the PHA 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-IX.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.

MHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA 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, Sexual Assault 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 landlord must give you at least 15 calendar 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, mental health professional, 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 or an administrative record.

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 authorities 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 Section 8 Program Manager or Program Specialist at 415-491-2525.

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 or intimate partner 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 or intimate partner
• 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 engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
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 or has been a victim of domestic violence, dating violence, or stalking. You cannot evict a tenant who is or has been 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 or 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 that tenants who are not victims.

**Removing the Abuser from the Household**

You 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 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/](http://www.hud.gov/offices/adm/hudclips/).
- A statement from a victim service provider, attorney, mental health professional, 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 or administrative record.

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 Program Manager or Program Specialist.

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 or intimate partner 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 or intimate partner
- 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 engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress
CHAPTER 17  - PROJECT-BASED VOUCHERS

INTRODUCTION
This chapter describes HUD regulations and MHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors MHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at MHA’s discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how MHA 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 re-determined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.
PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]
The project-based voucher (PBV) program allows MHAs that already administer a tenant-based voucher program under an annual contribution 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]. MHAs may only operate a PBV program if doing so is consistent with MHA’s Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o) (13)].

MHA Policy
MHA 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, MHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, MHA 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 MHA 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.

MHA Policy
Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, MHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]
Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. MHAs may not use voucher program funds to cover relocation costs, except that MHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.
The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of MHA to ensure the owner complies with these requirements.

**17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

MHA 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, MHA must comply with MHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).
PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW
MHA must describe the procedures for owner submission of PBV proposals and for MHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, MHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56,], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]
MHA must select PBV proposals in accordance with the selection procedures in MHA administrative plan. MHA must select PBV proposals by either of the following two methods.

- **MHA request for PBV Proposals.** MHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to MHA request. MHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

- **MHA may select proposal that were previously selected based on a competition.** This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

**Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]**
MHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by MHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of MHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

**MHA Policy**

**MHA Request for Proposals for Rehabilitated and Newly Constructed Units**
MHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.


In addition, MHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

MHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number of units MHA estimates that it will be able to assist under the funding MHA is making available. Proposals will be due in MHA office by close of business 30 or more calendar days from the date of the last publication.
In order for the proposal to be considered, the owner must submit the proposal to MHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

MHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria, and/or others specified in the RFP that will further MHA’s mission:

- **Owner experience and capability to build or rehabilitate housing as identified in the RFP;**
- **Extent to which the project furthers MHA goal of deconcentrating poverty and expanding housing and economic opportunities;**
- **If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and**

**MHA Requests for Proposals for Existing Housing Units**

MHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

**Marin Independent Journal, Marin Scope, Novato Advance, Pacific Sun, Point Reyes Light, The Ark, Bolinas Hearsay.**

In addition, MHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

MHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number of units MHA estimates that it will be able to assist under the funding MHA is making available. Proposals will be due in MHA office by close of business on a date specified in the advertisement, which shall be 10 or more calendar days from the date of the last publication.

MHA will rate and rank proposals for existing housing units using the following criteria, and/or others specified in the RFP that will further MHA’s mission:

- **Experience as an owner in the tenant-based voucher program and owner compliance with the owner’s obligations under the tenant-based program;**
- **Extent to which the project furthers MHA goal of deconcentrating poverty and expanding housing and economic opportunities;**
- **If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and**
- **Extent to which units are occupied by families that are eligible to participate in the PBV program.**

**MHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program**

MHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.
MHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

Marin Independent Journal, Marin Scope, Novato Advance, Pacific Sun, Point Reyes Light, The Ark, Bolinas Hearsay. Also this will be posted on Craigslist website.

In addition to, or in place of advertising, MHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be due in MHA office by close of business on a date specified in the advertisement, which shall be 10 or more calendar days from the date of the last publication. MHA will evaluate each proposal on its merits using the following factors, and/or others specified in the RFP that will further MHA’s mission:

- Extent to which the project furthers MHA goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

MHA-owned Units [24 CFR 983.51(e) and 983.59]
A MHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that MHA-owned units were appropriately selected based on the selection procedures specified in MHA administrative plan. If MHA selects a proposal for housing that is owned or controlled by MHA, MHA must identify the entity that will review MHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of MHA-owned units, the initial contract rent must be approved by an independent entity. In addition, housing quality standards inspections must be conducted by an independent entity. The independent entity that performs these program services may be the unit of general local government for MHA jurisdiction (unless MHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

MHA Policy
MHA may submit a proposal for project-based housing that is owned or controlled by MHA. If the proposal for MHA-owned housing is selected, MHA will use Sonoma County Redevelopment Agency, or a HUD-approved independent entity, to review MHA selection and to administer the PBV program. MHA will obtain HUD approval of Sonoma Redevelopment Agency, or a HUD-approved independent entity, prior to selecting the proposal for MHA-owned housing.

MHA may only compensate the independent entity from MHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). MHA may not use other program receipts to compensate the independent entity for their services. MHA and the independent entity, may not charge the family any fee for the appraisal or the services provided by the independent entity.

MHA Notice of Owner Selection [24 CFR 983.51(d)]
MHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice.
in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

**MHA Policy**
Within 15 calendar days of MHA making the selection, MHA will notify the selected owner in writing of the owner’s selection for the PBV program. MHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, MHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals MHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. MHA will also post the notice of owner selection on its electronic web site.

MHA will make available to any interested party its rating and ranking sheets and documents that identify MHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. MHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

MHA will make these documents available for review at MHA during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

**17-II.C. HOUSING TYPE [24 CFR 983.52]**
MHA 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 MHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner’s proposal submission but prior to the execution of the HAPs do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

MHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. MHA choice of housing type must be reflected in its solicitation for proposals.

**17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

**Ineligible Housing Types [24 CFR 983.53]**
MHA 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; and transitional housing. In addition, MHA may not attach or pay PBV assistance for a unit occupied by an owner and MHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.
Subsidized Housing [24 CFR 983.54]
A MHA 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 MHA 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 MHA in accordance with HUD requirements.

17-I.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10; FR Notice 06/25/14]
MHA 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.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

MHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above MHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the Federal Register notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.
17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 11/24/08]

In general, MHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)],

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily project because they are specifically made available for elderly and/or disabled families or families receiving supportive services (also known as *qualifying families*).

For a project to qualify for the exception, MHA’s administrative plan will include the type of services offered to families 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. MHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the MHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

MHA 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. MHA’s administrative plan must state the form and frequency of such monitoring.

**MHA Policy**

MHA may provide PBV assistance for excepted units. MHA may develop housing for occupancy by elderly and disabled families and/or families in need of services.

Families in the Family Self-Sufficiency Program that do not continue to receive the services or complete the required service program will be terminated in accordance with MHA policies in Section 12-II.F.

The following types of services will be provided depending on the needs of the family:

- Transportation for activities such as, (but not limited to) grocery shopping, job training, education, attending medical and dental appointments, etc.
- Supervised taking of medications
- Treatment for drug addiction (for recovering and current users)
- Treatment for alcohol addiction (for recovering and current users)
- Training and development of housekeeping and homemaking skills
- Family budgeting
- Child care
• Parenting skills
• Computer access and training
• Library access
• Work skills development, job training and employment counseling
• Educational/vocational opportunities
• Case management services and/or counseling
• Access to Health and Psychiatric Services, i.e. nurse/medical staff, mental health professional, etc.
• Life skills training
• Access to on-site/off-site social activities

Annually, during the recertification process, MHA will examine the families’ receipt of supportive services to determine and confirm that the families still qualify to continue receiving PBV assistance. MHA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternatively, each service provider will monitor and submit a report to MHA identifying the services received by each family, and MHA will verify if all services required in the statement of family obligations or FSS contract of participation were received. If the family fails without good cause to receive all of the required services stated in the statement of family obligations or FSS contract of participation between the time of the annual reports, the family and service provider must notify MHA of the failure in writing within 14 calendar days of the failure.

**Promoting Partially-Assisted - Projects [24 CFR 983.56(c)]**

MHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A partially assisted project is a project in which there are fewer units covered by a HAP contract than all residential units [24 CFR 983.3].

MHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. MHA may also determine not to provide PBV assistance for excepted units, or MHA may establish a per project cap of less than 25 percent.

**MHA Policy:**
MHA will not impose any cap beyond HUD regulations on the number of PBV units assisted per project.

**17-II.G. SITE SELECTION STANDARDS**
**Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

MHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP contract or HAP contract for units on the site, unless MHA has determined that PBV assistance for housing at the selected site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. The standard for de-concentrating poverty and expanding housing and economic opportunities must be consistent with MHA’s Annual Plan under 24 CFR 903 and MHA’s administrative plan.

In addition, prior to selecting a proposal, MHA 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).
MHA Policy
It is MHA’s goal to select sites for PBV housing that provide for de-concentrating poverty and expanding housing and economic opportunities. In complying with this goal MHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, MHA will consider exceptions to the 20 percent standard where MHA determines that the PBV assistance will complement other local redevelopment activities designed to de-concentrate poverty and expand housing and economic opportunities, 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;
- 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 MHA approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]
MHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]
In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
• The site must not be located in an area of minority concentration unless MHA 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.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]
MHA 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.). MHA 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.

MHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and MHA, 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.

MHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. MHA 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, 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)]

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. MHA 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)]
MHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, MHA 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, MHA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]
MHA must inspect each contract unit before execution of the HAP contract. MHA 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, MHA must inspect the unit. MHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual /Biennial Inspections [24 CFR 983.103(d); FR Notice 06/25/14]
At least once every 24 months during the term of the HAP contract, MHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.
PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fails the initial inspection, MHA must re-inspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]
MHA 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. MHA must take into account complaints and any other information coming to its attention in scheduling inspections.

MHA 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 MHA supervisory quality control HQS inspections, MHA should include a representative sample of both tenant-based and project-based units.

Inspecting MHA-owned Units [24 CFR 983.103(f)]
In the case of MHA-owned units, the inspections must be performed by an independent agency designated by MHA and approved by HUD. The independent entity must furnish a copy of each inspection report to MHA and to the HUD field office where the project is located. MHA 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 MHA-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, MHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an Agreement if construction or rehabilitation has started after proposal submission [24 CFR 983.152(c)].

Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and MHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, MHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

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 MHA, 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 MHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, MHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, MHA may not enter into the Agreement until the environmental review is completed and MHA has received environmental approval. However, MHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

MHA Policy

MHA will enter into the Agreement with the owner within 15 calendar 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. MHA 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 MHA in the form and manner required by MHA:
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 MHA’s discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

MHA Policy

MHA 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. MHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

MHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, MHA 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. MHA 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, MHA must not enter into the HAP contract.

If MHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, MHA 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
MHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203, FR Notice 11/24/08]
The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project’s name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set-aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]
MHA may not enter into a HAP contract until each contract unit has been inspected and MHA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after MHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after MHA 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.

MHA Policy

For existing housing, the HAP contract will be executed within 15 calendar days of MHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 15 calendar days of MHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.
Term of HAP Contract [24 CFR 983.205]

MHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 15 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 15 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

MHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, MHA may extend the term of the contract for an additional term of up to 15 years if MHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 15 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 15 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

MHA Policy

When determining whether or not to extend an expiring PBV contract, MHA 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 MHA [24 CFR 983.205(c)]

The HAP contract must provide that the term of MHA’s contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by MHA 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, MHA 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 MHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Remedies for HQS Violations [24 CFR 983.208(b)]

MHA 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 MHA determines that a contract does not comply with HQS, MHA 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.

MHA Policy

MHA 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 Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

At MHA’s discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, MHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)]

At MHA’s discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of MHA’s PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

MHA Policy

MHA will consider adding contract units to the HAP contract when MHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.
17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

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 MHA, 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 (does not apply to family’s membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.
17-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 MHA 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.

MHA 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.

MHA Policy

MHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. MHA 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 MHA, the HAP contract may provide for vacancy payments to the owner for a MHA-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 MHA 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).

MHA Policy

MHA will decide on a case-by-case basis if MHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.
PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VIA. 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-VIB. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]
MHA may select families for the PBV program from those who are participants in MHA’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 determined 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 MHA, 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 MHA’s collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

MHA Policy

MHA will determine an applicant family’s eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]
An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by MHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on MHA’s waiting list. Once the family’s continued eligibility is determined (MHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and MHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VIC. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]
MHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. MHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by MHA. If MHA chooses to offer a separate waiting list for PBV assistance, MHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.
If a MHA decides to establish a separate PBV waiting list, MHA may use a single waiting list for MHA’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.

**MHA Policy**

Generally, MHA will not establish a separate PBV waiting list. However, at times MHA may establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. MHA currently has waiting lists for the following PBV projects:

- **Point Reyes**
- **Hamilton Housing**

**17-VLD. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from MHA’s waiting list. MHA may establish selection criteria or preferences for occupancy of particular PBV units. MHA may place families referred by the PBV owner on its PBV waiting list. Applicants will be pulled from the waiting list by lottery per preference points.

**Income Targeting [24 CFR 983.251(c)(6)]**

At least 75 percent of the families admitted to MHA’s tenant-based and project-based voucher programs during MHA 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, MHA must first refer families who require such features to the owner.

**Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**

MHA 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. MHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although MHA is prohibited from granting preferences to persons with a specific disability, MHA 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 MHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), MHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].
MHA Policy

MHA 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). MHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

17-VLE. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]
MHA 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 MHA’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, MHA 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, MHA must provide a briefing packet that explains how MHA 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, MHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, MHA 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
MHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VLF. OWNER SELECTION OF TENANTS
The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant’s ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].
Leasing [24 CFR 983.253(a)]
During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by MHA from MHA’s waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on MHA’s subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]
The owner must promptly notify MHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, MHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. MHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

MHA Policy
The owner must notify MHA in writing (mail, fax, or e-mail) within 14 calendar days of learning about any vacancy or expected vacancy.

MHA will make every reasonable effort to refer families to the owner within 15 calendar days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]
If any contract units have been vacant for 120 or more days since owner notice of the vacancy, MHA 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.

MHA Policy
If any contract units have been vacant for 120 days, MHA 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. MHA will provide the notice to the owner within 15 calendar 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 MHA’s notice.

17-VLG. TENANT SCREENING [24 CFR 983.255]

MHA Responsibility
MHA is not responsible or liable to the owner or any other person for the family’s behavior or suitability for tenancy. However, MHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

MHA Policy
MHA will not conduct screening to determine a PBV applicant family’s suitability for tenancy.

MHA must provide the owner with an applicant family’s current and prior address (as shown in MHA records) and the name and address (if known by MHA) of the family’s current landlord and any prior landlords.

In addition, MHA may offer the owner other information MHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. MHA must provide applicant families a description of MHA policy on providing information to owners, and MHA must give the same types of information to all owners.

MHA may not disclose to the owner any confidential information provided in response to a 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(a)(4)].
MHA Policy

MHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. MHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility
The owner is responsible for screening and selection of the family to occupy the owner’s unit. When screening families, the owner may consider a family’s background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.
PART VII: OCCUPANCY

17-VII.A. OVERVIEW
After an applicant has been selected from the waiting list, determined eligible by MHA, 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 MHA model lease.

MHA may review the owner’s lease form to determine if the lease complies with state and local law. If MHA determines that the lease does not comply with state or local law, MHA may decline to approve the tenancy.

MHA Policy
MHA will not review the owner’s lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]
The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; 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 MHA (the names of family members and any MHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.
Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family.

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give MHA a copy of all changes.

The owner must notify MHA 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 MHA and in accordance with the terms of the lease relating to its amendment. MHA 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.

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.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by MHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.
Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

**PHA Policy**

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. MHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

**MHA Policy**

MHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

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

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

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. MHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If MHA determines that a family is occupying a wrong size unit, based on MHA’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, MHA must promptly notify the family and the owner of this determination, and MHA must offer the family the opportunity to receive continued housing assistance in another unit.

**MHA Policy**

MHA 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 15 calendar days of MHA’s determination. MHA 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 MHA offers the family a tenant-based voucher, MHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family’s voucher (including any extension granted by MHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If MHA 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 MHA, or both, MHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by MHA and remove the unit from the HAP contract.

**MHA Policy**

When MHA 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, MHA will terminate the housing assistance payments at the expiration of this 30-day period.

MHA 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 MHA. If the family wishes to move with continued tenant-based assistance, the family must contact MHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, MHA 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, MHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

**17-VILD. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]**

MHA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly and/or disabled families; or
- Specifically made available for families receiving supportive services as defined by MHA. 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 as defined by MHA and
successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception (e.g., a family that does not successfully complete its FSS contract of participation or supportive services requirements, or a family is no longer elderly or disabled due to a change in family composition where the PHA does not exercise discretion to allow the family to remain in the excepted unit), must vacate the unit within a reasonable period of time established by MHA, and MHA 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 MHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly or disabled family member or long-term or permanent hospitalization or nursing care), the elderly or disabled family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family

**MHA Policy**

The PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members’ control.

In all other cases, when the PHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA 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.

The PHA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to the PHA, the PHA will amend the HAP contract to reduce the total number of units under contract.
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 re-determined 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 MHA, 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 project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent 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 project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).
Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordable with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordable with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

PHA Policy

The PHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the PHA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, MHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, MHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, MHA 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, MHA 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.

MHA Policy

Upon written request by the owner, MHA 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. MHA 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, MHA 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 MHA determines it is necessary due to MHA budgetary constraints.
Redetermination of Rent [24 CFR 983.302, FR Notice 11/24/08]
MHA 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 MHA, 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 MHA. MHA 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).

MHA Policy

An owner’s request for a rent increase must be submitted to MHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

MHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract. However, MHA may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Notice of Rent Change

The rent to owner is re-determined by written notice by MHA to the owner specifying the amount of the re-determined rent. MHA 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.

MHA Policy

MHA will provide the owner with at least 30 days’ written notice of any change in the amount of rent to owner.

MHA-owned Units [24 CFR 983.301(g)]
For MHA-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. MHA 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 MHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required
MHA must re-determine 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;
- MHA 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 project;
- 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, MHA 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 MHA. The comparability analysis may be performed by MHA 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.

MHA-owned Units
For MHA-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 MHA-owned units to MHA 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, MHA 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]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.
PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]
During the term of the HAP contract, MHA 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 MHA agree on a later date.

Except for discretionary vacancy payments, MHA 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 MHA 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 MHA determines that the vacancy is the owner’s fault.

MHA Policy

If MHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, MHA will notify the landlord of the amount of housing assistance payment that the owner must repay. MHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of MHA, the HAP contract may provide for vacancy payments to the owner. MHA may only make vacancy payments if:

- The owner gives MHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner’s knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by MHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by MHA and must provide any information or substantiation required by MHA to determine the amount of any vacancy payment.
MHA Policy

If an owner’s HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified MHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 14 calendar days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and MHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by MHA within 14 calendar days of MHA’s request, no vacancy payments will be made.

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 MHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in MHA 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 MHA 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 MHA. The owner must immediately return any excess payment to the tenant.

Tenant and MHA 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 MHA.

Likewise, MHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. MHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. MHA 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, MHA 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.

MHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If MHA chooses to pay the utility supplier directly, MHA must notify the family of the amount paid to the utility supplier.

MHA Policy

MHA will make utility reimbursements to the family.
17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

**Meals and Supportive Services**
With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

**Other Charges by Owner**
The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.
CHAPTER 18 - FAMILY SELF-SUFFICIENCY PROGRAM

PART I: PURPOSE 24 CFR 984.101
The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of assistance under the Housing Choice Voucher and Public Housing program with public and private resources, enable participating families to earn increased income, reduce or eliminate the need for welfare assistance, and make progress toward achieving economic independence and housing self-sufficiency.
This is a voluntary program and in the event a family fails to meet obligations under the FSS Contract of Participation, MHA will not terminate housing assistance under the Housing Choice Voucher or Public Housing programs.

FAMILY DEMOGRAPHICS 24 CFR 984.201 (d)(1)
Marin County residents reflect a diverse array of socioeconomic and ethnic groups. The predominant groups residing in Public Housing and participating in the Housing Choice Voucher program are single female head of households with minor children, Caucasians, African Americans, Asians predominately of Vietnamese descent, and Latinos. There is also a large and active disabled community. These groups are all represented in the PH and HCV FSS Program. Precise demographics change and are reflected in Visual Homes, MHA’s Housing Information System.

Nondiscrimination 24 CFR 984.201 (d)(6)(ii)
In selecting participating families, assurances will be evident that the selection was made in a nondiscriminatory manner without regard to race, color, religion, sex, family status, national origin, sexual orientation, blindness, visual handicap, physical handicap, or mental impairment in compliance with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, and Executive Order 11063.
MHA will not discriminate against otherwise qualified persons because of their disabilities. MHA will make reasonable accommodations to the person’s disability to allow participation in the FSS Program. MHA may decide that an accommodation is not reasonable if it causes undue financial and/or administrative burdens.

18-I.A. PARTICIPANT SELECTION 24 CFR 984.201(d)(1)

Eligibility Requirements
1. To be selected to participate in the FSS program, a resident must be a head-of-household, and either a Public Housing resident, or an active participant of the Housing Choice Voucher Program. An eligible participant must be in compliance with their lease as verified by the program manager.
2. In the event a prospective FSS applicant has a pending re-payment agreement, they may join FSS upon approval from the accounting dept. and/or program manager.
3. The FSS family includes everyone in the household. However, only one escrow account will be established per household. Other members of a household (over 18) are eligible to become participants if the head of household has signed a Contract of Participation.
4. All participants must be willing to sign a Contract of Participation. The purpose of the contract is to state the rights and responsibilities of the family and MHA, the resources and supportive services to be provided to the family and the activities to be completed by the family. Basic support services are part of the contract and include but are not limited to:

**Education & Training:** Education and Literacy
- GED Classes
- Community College
- Career Guidance
- Specialized Technical Classes
- Four-Year College/University
- On-The-Job Training
- Job Placement
- Social/Life Skills Training

**Counseling:**
- Individual Counseling
- Family Counseling
- Group Counseling
- Outpatient Drug & Alcohol Counseling
- Residential Drug & Alcohol Treatment
- Parenting Classes

**Other:**
- Childcare
- Transportation
- Credit Counseling
- Money Management/Budget Counseling
- Grants & Financial Aid
- Assistance with Court/Legal Matters
- Homeownership counseling

**Application and Selection Process  24 CFR 984.201 (d)(6)(i)**

Participants from the consolidated FSS program will be selected from public housing residents (Golden Gate Village) and Housing Choice Voucher participants. MHA will conduct outreach on an on-going basis. The FSS Program is marketed via inclusion of program brochures in briefing packets for new voucher holders and public housing residents. MHA staff members promote the FSS Program at the time of Annual Re-certifications, Inspections, or other case management. The program is also promoted via community partnerships with other agencies who serve our HCV and PH Participant families, such as Cal Works, Marin Employment Connection, and Dept. of Rehabilitation. New Public Housing residents will be notified of the FSS program at the time of lease up. In addition, FSS program information will be posted on site at each MHA office and in the offices of community based agencies and service providers.

The consolidated FSS Program is comprised of participants from both Housing Choice Voucher and the Public Housing program. The consolidated program number will be a minimum of 125 FSS Program participants. Current Housing Choice Voucher participants and Public Housing residents who express a desire to participate in the FSS Program will be given an appointment for an Orientation.
1. To be eligible the applicant’s income information must be current and within 120 days in the housing information system. MHA must conduct a new reexamination if more than 120 days have expired.

2. Applicant families that cannot be assisted immediately shall be placed on a waiting list in order of date of inquiry to participate in FSS and in order of most current effective date of re-exam in the housing information system. Applicants will be withdrawn from the Family Self Sufficiency Program waiting list if:
   a. The applicant so requests
   b. MHA is unable to contact the applicant
   c. The applicant fails to respond to any MHA request for information

3. Applicants must attend the mandatory orientation session in order to be considered for the program. All participants must attend a full FSS orientation. The orientation is designed to assist the applicant in making a decision as to whether to participate in the FSS Program.

   This session will include, but is not limited to, the following information:
   - The needs assessment process;
   - Explanation of the program requirement that the Head of Household seeks and maintains employment;
   - How support services will be accessed;
   - How case management works for the participant;
   - The Contract of Participation and what it means;
   - The Housing Choice Voucher Program and Public Housing requirements;
   - The 5 to 7-year length of participation;
   - The escrow account, audit process and the possible forfeiture of MHA escrow account funds.
   - Mandatory Earned Income Disallowance (MEID)

4. After attending the required FSS orientation, the applicant will meet with the Program Coordinator/Case manager for an intake interview, at which time the applicant will complete the FSS application. The Program Staff will conduct a needs assessment and work with the applicant on developing a goal plan. This process may require that the applicant attend more than one meeting with the Staff member.

5. Based upon the intake interview, application and needs assessment process, the Program Coordinator/Case manager will determine whether the family is sufficiently motivated to participate in the FSS Program. If an applicant fails to show up for two appointments prior to signing the contract, without notifying the case manager, this will be deemed as lack of interest and they will be placed back on the wait list. Applicants who are admitted to the program will be so notified and will sign a Contract of Participation.

6. Income and rent numbers to be used on the Contract of Participation may be taken from the amounts on the last re-examination or interim determination before the family’s initial participation in the FSS program, unless more than 120 days will pass between the effective date of the re-examination and effective date of the Contract of Participation. If more than 120 days have passed since the last re-examination, MHA must conduct a new re-examination or interim.
7. Applicants who are denied admission to the FSS Program will be notified by mail. Applicants who are denied may appeal MHA’s action by following the grievance process outlined in this Administrative Plan.

**RE-ENROLLMENT INTO THE FSS PROGRAM**

8. If the Head of Household has previously participated in the FSS Program and cashed out its escrow account, or committed a program violation and was terminated, the Head of Household may not receive FSS assistance again. If the Head of Household previously participated and failed to meet their obligations, they may be denied future participation.

9. If the Head of Household has previously participated in the FSS Program but did not graduate, the Head of Household may reapply for participation if they meet the following criteria:

10. The family did not earn escrow or if they forfeited their escrow;

11. The family is in compliance with their lease at the time of reapplying.

12. Under these circumstances, a family may re-apply to the FSS Program after a six-month wait period after leaving the program. If there is a waiting list, the family will be placed in the next available slot on the list and served when their name comes to the top. They will be required to attend an orientation as all new participants are required to do.

**18-I.B. NEEDS ASSESSMENTS FOR THE PROGRAM PARTICIPANTS**

24CFR 984.201 (d)(8)

A comprehensive needs assessment will be conducted. An Individual Services and Training Plan (ITSP) will be completed for each family prior to signing a Contract of Participation. An Action Plan will be developed which shall include:

1) the family’s goals, both primary and secondary;
2) the services the family requires to achieve their goals;
3) service providers with whom the family will be working;
4) a list of steps necessary to complete the family’s Action Plan and the milestones in that Plan

The Individual Training and Services Plan which includes goals and action steps will be reviewed, monitored, and updated as necessary by the Program Coordinator/Case Manager. The Individualized plans will be reviewed at least annually for both Housing Choice Voucher and Public Housing FSS participants.
18-I.C. CASE MANAGEMENT
Case management is a key factor in ensuring comprehensive service delivery. Case management establishes a systematic, continuous process in which families are actively involved in planning the steps they can take to improve their lives and in evaluating the results. Case management is not merely service brokering, but a problem-solving partnership among practitioners and clients. MHA employs Supportive Housing staff who fulfill the following functions:

1) Assist in briefing of applicants;
2) Provide information and referral services to participants;
3) Assist in identifying and utilizing appropriate community resources;
4) Coordinate services for participants with various Health and Human Services/Social Services agencies, and other non-profit groups;
5) Monitor participant’s progress in meeting goals;
6) Work with other agencies’ case managers;
7) Provide services up to one year after the family graduates from the FSS program.

18-I.D. PARTNERING AGENCIES

Employment/Training and Education
The Marin Employment Connection will work with Program Staff to coordinate employment training, education, and employment referrals for participating families. Services in this component will include: educational assessment, education for completion of high school, and job training, preparation, and placement.

Other Support Services
Marin Housing has developed a strong network with various Marin County and Bay Area social service agencies that are willing to provide services for participants of the FSS Program. These agencies are:

- Canal Alliance
- CenterPoint
- College of Marin
- Community Action Marin
- Community Child Care Council
- Department of Rehabilitation
- Family Service Agency of Marin County
- Center for Domestic Peace
- Jewish Family and Children’s Services
- Habitat for Humanity of the Greater SF Bay Area
- Marin Adopt a Family
- Marin Advocates Network
- Marin City Community Development Corporation
- Marin Community Foundation-Thriving Families Network
- Marin County Mental Health and Substance Abuse Services
- Marin County Office of Education
- Marin Education Fund/10,000 Degrees
- Marin Employment Connection/EDD/CalWorks
- Marin Family Action
- North Bay Family Homes
- Novato Human Needs Center
• Ritter Center
• Regional Occupational Program (ROP)
• SparkPoint
• Women Helping All People
• YWCA

18-I.E. INCENTIVES TO ENCOURAGE PARTICIPANTS  24 CFR 984.201(d)(5)
1) Marin Housing will establish an interest bearing escrow account for participating families who have an increase in earned income during the time of participation, resulting from achievement of the Contract of Participation Goals. Escrow accounts will be established and administered according to the regulations set for the FSS Final Rule (24CFR 984.305)
2) The FSS Staff will work in coordination with community partnerships to provide periodic workshops on topics related to credit repair, financial literacy, preparation for homeownership, and asset building. These workshops will be widely advertised, open to both current and prospective FSS participants.

18-I.F. PROGRAM COORDINATING COMMITTEE 24 CFR 984.202
The role of the Program Coordinating Committee is to help secure commitments of public and private resources and to prepare and implement the FSS program action plan. The Program Coordinating Committee will meet on a quarterly basis. The Program Coordinating Committee may use an existing entity as the PCC if that entity is comprised of membership from similar organizations.

18-I.G. CONTRACT OF PARTICIPATION 24 CFR 984.303
The Contract is an agreement between MHA and the Head of Household. It sets forth the provisions of the program, specifies the resources and appropriate support services necessary to assist the participant family in achieving economic independence and self-sufficiency, and the responsibilities and obligations of the participating family. The contract shall provide that MHA may terminate or withhold supportive services if the family fails to comply with the requirements of the Contract of Participation (COP). The COP specifies that the family must comply with all obligations under the HCV and PH programs. An Individual Training and Services Plan must be completed for the FSS Head of Household.

• The contract shall specify that each participating family will be required to fulfill the obligations to which the family has committed itself under the contract within 5 years of entering into the contract. MHA can extend the term of the contract for up to an additional 2 years for a participating family that requests an extension if MHA finds good cause exists for granting the extension. Good cause exists if the circumstances that prevented completion of the contract were beyond the control of the family, such as a serious illness or involuntary loss of employment, or additional time to become independent of cash aid welfare assistance. The Mandatory Earned Income Disallowance alone is not considered allowable cause for an extension.
• The person designated as the head of household shall be required under the contract to seek and maintain suitable employment following completion of a job training program if required as a condition of the contract.
• If the head of household does not seek and maintain employment as specified in the FSS Contract of Participation, or never finds employment during the contract’s 5-year term, the family will not have met its obligations and MHA may terminate the family’s participation in the FSS Program.
• “Maintain employment” means that the head of household has secured employment and had this reflected in rent increases during their participation in FSS.
• The head of household may attend school only as a precondition to seeking employment, but after completion of the contracted course of study the head of household must seek and maintain a suitable job. School may not be substituted for employment.
• MHA has the ultimate responsibility for determining if the head of household’s employment is deemed “suitable” for FSS purposes. This decision must be made in conjunction with the head of household, and it must be based on the person’s skills, education, and the available job opportunities within MHA’s jurisdiction. The overall objective should include employment that will propagate self-sufficiency. MHA may delegate this responsibility to the FSS Program Coordinator on recommendations from the Program Coordinating Committee.

• If the head of household leaves the family or becomes medically unable to work during the term of the Contract of Participation, and the remaining family members continue participation in the Housing Choice Voucher or Public Housing program, the Contract of Participation must be revised to designate a new head of household who must seek and maintain employment. The head of household must be at least 18 years of age. With the exception of an emergency, the new head of household must be designated and sign a revised FSS Contract of Participation and ITSP no longer than one year prior to completion of the original FSS contract.

• The Program Coordinator/Case Manager shall provide counseling for the participating family with respect to seeking, securing, and maintaining affordable rental (and as appropriate, home ownership) opportunities in the private housing market. This counseling shall include information on an individual’s rights under the Fair Housing Act.

• The Program Coordinator/Case Manager may continue to offer a participating family support services if: (1) the family has completed its contract; (2) the head of household becomes employed; and (3) the continuation of support services would strengthen the efforts of the family to become or remain self-sufficient.

The services may only continue for one year after the family leaves the program.

The parties to the contract may mutually agree to make changes to the contract, provided the terms of the changes are acceptable to all parties and the changes are consistent with the goals of the program.

18-I.H. TERMINATION OF THE CONTRACT OF PARTICIPATION 24CFR 984.303 (2)(h)

MHA may terminate the Contract of Participation if:

1) The participating family has successfully completed the contract and achieved self-sufficiency;

or

2) MHA and the participating family mutually consent to termination. Reasons for mutual consent can include, but are not limited to:

   • the necessary support services are not available;
   • the family leaves the area

3) The participating family chooses to leave the FSS Program and forfeits their escrow account;

4) The participating family has failed to meet the FSS obligations;

5) The participating family member is involved in illegal activities including drug-related activities or violent criminal activities or allows a visitor or guest to engage in illegal activities;

6) The family fails to meet its obligations under the Housing Choice Voucher

7) Program or Public Housing Program; including but not limited to:
   • failure to report income or changes in family composition;
   • failure to allow inspections of dwelling unit;
   • Failure to provide requested information.

8) The participant has committed any fraud in connection with any federal housing assistance program;

9) The participant has violated any obligation under the Housing Choice Voucher or Public Housing Program;
10) The family commits such other act as is deemed inconsistent with the purpose of the FSS Program.

18-I.I. Hearing
The participating family is entitled to a hearing if a decision to deny or terminate the FSS Contract of Participation or housing assistance is made. Hearings will be conducted in accordance with the procedures outlined in the Public Housing ACOP and HCV Administrative Plan.

18-I.J. ESCROW ACCOUNTS 24CFR 984.305

The FSS program provides for the establishment of an escrow account. A portion of the increase in the family’s rent because of increases in earned income will be credited to the escrow account in accordance with HUD requirements. The amount of the escrow credit is based on increases in the family’s total tenant payment resulting from increases in the family’s earned income during the term of the FSS contract subsequent to signing the contract. The family may request an interim be processed for an increase in rent in order to contribute to the escrow account. An interim will be processed as a courtesy to the family even if the increase in income is lower than may be required for increasing the rent according to Housing Choice Voucher and Public Housing lease procedures. As the family’s income increases, MHA calculates rent and the family pays increased rent, as does any other resident. MHA then makes deposits to an escrow account in the appropriate amount based on one of two formulas, one for very low-income families and one for low-income families. For very low-income families, the amount of the monthly escrow credit is the lesser of: (1) 30% of the current monthly adjusted income increases since execution of the Contract of Participation, or (2) current family contribution less the family contribution when the Contract of Participation was executed. For low-income families, the amount is one-half of the amounts calculated according to the computation system used for very low-income families. There is no escrow credit for families in excess of 80% of median income.

In Public Housing the family pays the tenant rent directly to MHA. The escrow credit is deducted from the rent payment and put in the Public Housing Escrow Account. Public Housing residents and HCV Participants must pay their rent on time and all charges or repayment agreements must be current for the escrow account to be credited. If a participant fail to pay their rent on time, considered to be the close of business on the 7th or the first business day after the 7th for PH residents program and as per lease for HCV participants, the escrow account will not be credited for that month. Repayment Agreements must be paid by the close of business on the 15th of the month or the first business day after the 15th for the escrow account to be credited for the month. The FSS family rent and escrow credit is calculated based on income and wages. The FSS family is responsible for the paying the family contribution to rent. Rent payments on behalf of the FSS family by a third party annuls the escrow credit.

After satisfactory completion of all program requirements and a thorough audit of the account, participants will receive their escrow account payment within 30 days.

Establishing Escrow Accounts
FSS escrow funds must be deposited into a single, interest-bearing depository account. The accounting for these funds will be supported through a subsidiary ledger that records the balance of each individual FSS participant’s account. MHA will notify participants and beginning of escrow deposits of the monthly amount to be deposited. MHA will report to the family at least annually on the escrow account including:
• The balance at the beginning of the reporting period,
• The amount credited during the period,
• Any deductions made from the account for amounts due MHA before interest was distributed,
• The amount of interest earned on the account, and
• The total in the account at the end of the reporting period.

**Disbursement of FSS Account Funds**

Disposition of the escrow accounts shall be as follows:

1. Amounts in the escrow account, in excess of any amount owed to MHA, may be withdrawn by the participating family only after the family certifies that it is no longer a recipient of any Federal, State, or other public assistance; excluding housing assistance.

2. If the family fails to meet its obligations under its Contract of Participation, it makes the contract voidable and the escrow account will be forfeited.

3. The family terminates its participation in the Housing Choice Voucher or Public Housing Program even though the TTP is below the amount that is required to meet the unit’s gross rent, below the FMR or Payment Standard, or otherwise appears to be insufficient to pay an unsubsidized rent, as long as all the other terms of the Contract of Participation have been met; the escrow money can be paid to the family.

4. If the family requests an early graduation from FSS, prior to the end of the COP, this may be granted if certain conditions are met. The family must have met their final goal, have been independent of public assistance for the prior twelve months and be employed at the time. The head of household must have their employment income reflected in the MHA database to meet FSS graduation requirements. The escrow money can then be paid to the family. - If the family is purchasing a home prior to the completion of the FSS contract either through the HCV Homeownership Program or without subsidies, they may receive their escrow.

5. In the event any debt is owed to MHA, this will be deducted from the escrow balance prior to final disbursement to the FSS family. This balance may only be deducted from escrow when the family is considered in compliance with their lease as verified by the accounting department and/or property manager. CFR 984.305 For HCV participants, verification will be sent to landlords ensuring that there is no outstanding rental debt for the prospective FSS graduate. In the event there is unpaid rent, this will be deducted from the escrow balance prior to final disbursement, and paid to the landlord.

6. A thorough audit of the account will be made prior to final disbursement.

7. Participants are required to be in compliance with lease and/or program at the time of disbursement of escrow funds.

**Interim Disbursement of Escrow Funds**

MHA does not provide interim escrow withdrawals.

**18-I.K. PORTABILITY OF ASSISTANCE 24CFR 984.306**
In order to participate in the FSS Program, families must live in the initial jurisdiction for not less than one year before the family will be considered for a move under portability. MHA has the authority to approve a family’s request to move during this period. Rules of portability apply only to HCV participants.

After one year a family can choose to continue to participate in the FSS Program but move to another jurisdiction with the following conditions:

1. The family must demonstrate to the satisfaction of MHA that it will be able to fulfill its responsibilities under the original (or a modified) Contract of Participation in the receiving jurisdiction.

2. If a participating family moves and is unable to fulfill its obligations under the Contract of Participation (or a modification thereof), MHA will:
   a) terminate the participating family from the FSS Program; and
   b) the family will forfeit its escrow account.

3. If the family is participating in the FSS Housing Choice Voucher program and moves outside the MHA jurisdiction MHA may transfer the balance of the family’s escrow account to another housing authority’s HCV FSS program.

4. All other provisions of portability remain the same under the FSS Program.
Effects of escrow accounts for families who move to other jurisdictions are:

1. If a family moves and the receiving HA absorbs and issues their own Voucher, the receiving HA sets up an escrow account. MHA must close out the family’s escrow account and forward the balance to the receiving HA.

2. If the participating family moves, and the receiving HA decides not to absorb (to administer and bill), the family may remain in the MHA’s FSS program. If they wish to remain, they must demonstrate they can continue in MHA’s FSS Program by following through with goal updates with FSS staff. MHA will maintain the escrow account. The receiving HA must provide MHA with a breakdown of employment income versus other income in order to enable MHA to calculate escrow account deposits. Failure of the receiving HA to provide such information will result in MHA holding the receiving HA’s reimbursement payments.

If the family completes the Contract of Participation, the receiving HA will notify MHA and certify that the family is no longer receiving housing assistance. MHA will then pay out the escrow account to the family.

If the family does not complete the Contract of Participation when it expires, the receiving HA shall notify MHA and the escrow account is forfeited and reverts to MHA.

FSS families who request to port to MHA from another jurisdiction may transfer their FSS Contract of Participation to MHA, provided they contact MHA FSS staff within 120 days of leasing up. If they fail to contact MHA FSS staff within 120 days, they may be placed on a wait list.

18.I.I. REPORTS 24CFR 984.401

1) MHA shall submit required reports as requested by HUD and outlined by the most current NOFA.
## GLOSSARY

### A. ACRONYMS USED IN SUBSIDIZED HOUSING

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAF</td>
<td>Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)</td>
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<td>ACC</td>
<td>Annual contributions contract</td>
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<td>ADA</td>
<td>Americans with Disabilities Act of 1990</td>
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<tr>
<td>BR</td>
<td>Bedroom</td>
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<tr>
<td>CDBG</td>
<td>Community Development Block Grant (Program)</td>
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<tr>
<td>CFR</td>
<td>Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)</td>
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<td>CPI</td>
<td>Consumer price index (published monthly by the Department of Labor as an inflation indicator)</td>
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<td>FDIC</td>
<td>Federal Deposit Insurance Corporation</td>
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<td>FHA</td>
<td>Federal Housing Administration</td>
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<td>FICA</td>
<td>Federal Insurance Contributions Act (established Social Security taxes)</td>
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<td>FMR</td>
<td>Fair market rent</td>
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<td>FR</td>
<td>Federal Register</td>
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<tr>
<td>FSS</td>
<td>Family Self-Sufficiency (Program)</td>
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<tr>
<td>FY</td>
<td>Fiscal year</td>
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<tr>
<td>FYE</td>
<td>Fiscal year end</td>
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<tr>
<td>GAO</td>
<td>Government Accountability Office</td>
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<td>GR</td>
<td>Gross rent</td>
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<tr>
<td>HAP</td>
<td>Housing assistance payment</td>
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<tr>
<td>HCV</td>
<td>Housing choice voucher</td>
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<tr>
<td>HQS</td>
<td>Housing quality standards</td>
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<tr>
<td>HUD</td>
<td>Department of Housing and Urban Development</td>
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<tr>
<td>HUDCLIPS</td>
<td>HUD Client Information and Policy System</td>
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<tr>
<td>IG</td>
<td>(HUD Office of) Inspector General</td>
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<tr>
<td>IPA</td>
<td>Independent public accountant</td>
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<tr>
<td>IRA</td>
<td>Individual Retirement Account</td>
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<td>IRS</td>
<td>Internal Revenue Service</td>
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<tr>
<td>JTPA</td>
<td>Job Training Partnership Act</td>
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<tr>
<td>LBP</td>
<td>Lead-based paint</td>
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<tr>
<td>MSA</td>
<td>Metropolitan statistical area (established by the U.S. Census Bureau)</td>
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<tr>
<td>MTCS</td>
<td>Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)</td>
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<td>NOFA</td>
<td>Notice of funding availability</td>
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<td>OMB</td>
<td>Office of Management and Budget</td>
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<td>PASS</td>
<td>Plan for Achieving Self-Support</td>
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<tr>
<td>PHA</td>
<td>Public housing agency</td>
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<tr>
<td>PHRA</td>
<td>Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)</td>
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<td>PIC</td>
<td>PIH Information Center</td>
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<tr>
<td>PIH</td>
<td>(HUD Office of) Public and Indian Housing</td>
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<td>PS</td>
<td>Payment standard</td>
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<tr>
<td>QC</td>
<td>Quality control</td>
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<tr>
<td>QHWRA</td>
<td>Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)</td>
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<tr>
<td>REAC</td>
<td>(HUD) Real Estate Assessment Center</td>
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<tr>
<td>RFP</td>
<td>Request for proposals</td>
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<tr>
<td>RFTA</td>
<td>Request for tenancy approval</td>
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<tr>
<td>RIGI</td>
<td>Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)</td>
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<td>SEMAP</td>
<td>Section 8 Management Assessment Program</td>
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<tr>
<td>SRO</td>
<td>Single room occupancy</td>
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<tr>
<td>SSA</td>
<td>Social Security Administration</td>
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<td>SSI</td>
<td>Supplemental security income</td>
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<tr>
<td>TANF</td>
<td>Temporary assistance for needy families</td>
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<tr>
<td>TR</td>
<td>Tenant rent</td>
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<tr>
<td>TTP</td>
<td>Total tenant payment</td>
</tr>
<tr>
<td>UA</td>
<td>Utility allowance</td>
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<tr>
<td>URP</td>
<td>Utility reimbursement payment</td>
</tr>
<tr>
<td>VAWA</td>
<td>Violence Against Women Reauthorization Act of 2005</td>
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</table>
B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

**Adjusted Income.** Annual income, less allowable HUD deductions.

**Adjusted Annual Income.** Same as Adjusted Income.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative fee reserve** (formerly “operating reserve”). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual.** Happening once a year

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual Income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area Exception Rent.** An amount that exceeds the published FMR. See §982.504(b).

**“As-paid” States.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See Net Family Assets.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

**Biennial.** Happening every two years

**Budget authority.** An amount authorized and appropriated by the Congress for payment to Has under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

**Child.** A member of the family other than the family head or spouse who is under 18 years of age.

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.
Citizen. A citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
**Disabled person.** See Person with Disabilities.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

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

**Domicile.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

**Elderly family.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person.** An individual who is at least 62 years of age.

**Eligible Family (Family).** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

**Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

**Extremely Low Income Family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher -as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

**Fair Housing Act** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.
**Family.** Includes but is not limited to the following, and can be further defined in PHA policy.
- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program** (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**Foster Child Care Payment.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**Full-time Student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

**Handicap Assistance Expense.** See “Disability Assistance Expense.”

**HAP contract.** Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

**Housing Quality Standards.** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.
**Immediate family member.** A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed Asset.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**Imputed Income.** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family’s annual income and therefore reflected in the family’s rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income for Eligibility.** Annual Income.

**Income information** means information relating to an individual's income, including:
- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Jurisdiction.** The area in which the PHA has authority under State and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.
**Local Preference.** A preference used by the PHA to select among applicant families.

**Low Income Family.** A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

**Merger Date.** October 1, 1999.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of “cooperative.”

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of Funding Availability (NOFA).** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.
**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD. **PHA’s quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Persons with Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and “individual with handicaps” as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See “Individual with handicaps”

**Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**Public Housing Agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.
**Residency Preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

**Residency Preference Area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended

**Section 214 covered programs** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

**Security Deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

**Single Person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

**Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified Welfare Benefit Reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called “tolling”.

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See “Family rent to owner”.

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (Housing Choice Voucher). A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).
**Voucher program.** The housing choice voucher program.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

**Welfare-to-work (WTW) family.** A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).