Texas Department of Housing and Community Affairs

Section 8 Housing Choice Voucher Program
Administrative Plan

May 2016
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>OVERVIEW OF THE PHA, THE PROGRAM AND THE PLAN</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: INTRODUCTION</strong></td>
<td>4</td>
</tr>
<tr>
<td>2</td>
<td>FAIR HOUSING AND EQUAL OPPORTUNITY</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: NONDISCRIMINATION</strong></td>
<td>11</td>
</tr>
<tr>
<td>3</td>
<td>ELIGIBILITY</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS</strong></td>
<td>21</td>
</tr>
<tr>
<td>4</td>
<td>APPLICATIONS, WAITING LIST AND TENANT SELECTION</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: THE APPLICATION PROCESS</strong></td>
<td>45</td>
</tr>
<tr>
<td>5</td>
<td>BRIEFINGS AND VOUCHER ISSUANCE</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: BRIEFINGS AND FAMILY OBLIGATIONS</strong></td>
<td>56</td>
</tr>
<tr>
<td>6</td>
<td>INCOME AND SUBSIDY DETERMINATIONS</td>
<td>66</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: ANNUAL INCOME</strong></td>
<td>66</td>
</tr>
<tr>
<td>7</td>
<td>VERIFICATION</td>
<td>104</td>
</tr>
<tr>
<td></td>
<td><strong>PART I: GENERAL VERIFICATION REQUIREMENTS</strong></td>
<td>104</td>
</tr>
<tr>
<td>8</td>
<td>HOUSING QUALITY STANDARDS AND RENT REASONABleness DETERMINATIONS</td>
<td>129</td>
</tr>
<tr>
<td></td>
<td><strong>INTRODUCTION</strong></td>
<td>129</td>
</tr>
<tr>
<td>9</td>
<td>GENERAL LEASING POLICIES</td>
<td>146</td>
</tr>
<tr>
<td></td>
<td><strong>INTRODUCTION [24 CFR 982.305(a)]</strong></td>
<td>146</td>
</tr>
<tr>
<td>10</td>
<td>MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY</td>
<td>157</td>
</tr>
</tbody>
</table>

Page 2 of 259
Chapter 1: OVERVIEW OF THE PHA, THE PROGRAM AND THE PLAN

PART I: INTRODUCTION

The Texas Department of Housing and Community Affairs (the “PHA”, “TDHCA,” or the “Department”) serves as a public housing authority for the purpose of receiving funding for the Housing Choice Voucher (“HCV”) program (“HCVP”) from the United States Department of Housing and Urban Development (“HUD”). The PHA is an agency of the State of Texas, not a federal department or agency. A public housing agency is a governmental or public body, created and authorized to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent, and use of the plan and guide. The HCVP is the only Department program covered by this Administrative Plan.

The Section 8 Housing Choice Voucher Program was created by the Housing and Community Development Act of 1974 and amended by the Housing and Community Development Act of 1981, the Housing and Urban–Rural Recovery Act of 1983, the Technical Amendments Act of 1984, the Housing and Community Development Act of 1987, the National Affordable Housing Act of 1990, and the Housing and Community Development Act of 1992.


Administration of the housing programs and the functions and responsibilities of the Department staff are subject to the Personnel Policies and Procedures of the Department, the Equal Opportunity Plan, and the Section 8 Administrative Plan Operations/Procedures Manual. All Federal, State, and local housing laws will be followed and the Department will comply with Federal and State Fair Housing regulations.

The HCV Program is designed to promote the overall goal of decent, safe, and sanitary housing by using the Section 8 Program to house eligible families in private rental housing, therefore, increasing the housing stock for very low-income families.

In 1978, the state agency that was later to become TDHCA conducted a survey to identify localities that would be interested in participating in a rural Section 8 program. From among the respondents to this survey, 18 cities, 6 counties, 2 housing authorities, and 1 community action agency were included in the creation of the Department's HCVP and signed Local Operator (“LO”) contracts with the Department. The first Housing Assistance Payment Program contract was executed in September 1979. That structure has evolved over time and in an effort to streamline work and efficiently use administrative funds, the Department has reduced the number of LOs, some of those localities have withdrawn from the program, some areas have been absorbed, and more vouchers are fully administered by Department staff.

The Department is responsible for the operation of the Section 8 Housing Choice Voucher Program, which provides rental assistance for low-income families and individuals, including the elderly and persons with disabilities, to attain safe, decent and sanitary housing.

ORGANIZATIONAL SET UP

The HCV at TDHCA (also called “Section 8”) is overseen by the Executive Director, the Deputy Executive Director, and the Director of the Community Affairs Division of the Department. Section 8 has a Manager, several Regional Coordinators, and an Occupancy Specialist. Outreach activities and initial inspections are conducted by the LOs (when utilized) or Department staff which are contracted to administer the program in specific localities.
The Local Operators (“LOs”) are separate entities with which the Department may contract to assist with administration of the HCV Program on a local level. The Department chooses to use LOs when most efficient, but also directly administers vouchers with no local representative. The LO representative works as an agent of the Department to administer the Section 8 HCV program locally in the cities and/or areas covered under the LO contract. The primary responsibilities of a Local Operator, when utilized, are to:

1. Assist in receiving and reviewing applications from clients for participation in the program;
2. Assist in verifying family income, employment requirements and other factors relating to eligibility and the amount of assistance;
3. Assist in issuance of Housing Choice Vouchers and brief selected eligible families for participation in the program in a manner prescribed by the Department;
4. Perform any necessary Housing Quality Standard (“HQS”) inspections for new admissions and renewals;
5. Notify owners and families of property inspection determinations; and
6. Assist in processing changes in income and changes in household requests in accordance with department policies.

TDHCA’S CODE OF CONDUCT

TDHCA has an ethics policy and conflict of interest policy, which may be periodically updated, that all employees must adhere to and which describes standards of conduct. All employees must adhere to the Department’s Personnel Policies and Rules and other guiding employment documents. All Department employees must abide by all applicable federal and Texas laws, administrative rules, and Department conduct policies, including this ethics policy. A Department employee who violates any provision of the Department’s ethics and conduct policies is subject to termination of their state employment or other employment-related sanction. A Department employee who violates any applicable federal or Texas law or rule may be subject to civil or criminal penalties in addition to any employment-related sanction.

PART II: THE HOUSING CHOICE VOUCHER (“HCV”) PROGRAM

HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible households - “families” as that term is defined through U.S. Department of Housing and Urban Development rules and regulations. The PHA is afforded choices in the operation of the program that are included in the PHA’s administrative plan, a document approved by the governing board of the PHA.

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

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

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

THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD. The PHA also enters into a contractual relationship with each assisted family and the owner or landlord of the housing unit.
For the HCV program to work and be successful, all parties involved – HUD, the PHA, 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.
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 PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does the PHA do?

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

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA’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 satisfy the owner's leasing criteria.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one on the basis of protected class status;
- Maintain the housing unit by making necessary repairs in a timely manner;
• Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?
The family has the following responsibilities:

• Provide the PHA with complete and accurate information, determined by the PHA to be necessary for establishing program eligibility;
• Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
• Cooperate in attending all appointments scheduled by the PHA;
• Allow the PHA 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 the PHA and the owner before moving or termination the lease;
• Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
• Promptly notify the PHA of any changes in family composition;
• Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

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

APPLICABLE REGULATIONS
Applicable regulations include but are not limited to:

• 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
• 24 CFR Part 983: Section 8 Project-Based Assistance: Housing Choice Voucher Program

PART III. THE HCV ADMINISTRATIVE PLAN

OVERVIEW AND PURPOSE OF THE PLAN

HUD requires the administrative plan. The purpose of the administrative plan is to establish policies for carrying out the program in a manner consistent with HUD requirements and local goals and objectives contained in the PHA’s agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available on the Department’s website for public review as required by 24 CFR Part 903. The Plan is organized to provide information to users in particular areas of operation.
This administrative plan is set forth to define the PHA’s local policies for operation of the housing programs in the context of federal laws and regulations. Such federal regulations, HUD handbooks and guidebooks, notices and other applicable law govern all issues related to Section 8 not addressed in this document. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The PHA 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 PHA staff shall be in compliance with the PHA’s personnel policy and HUD’s Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

CONTENTS OF THE PLAN (24 CFR §982.54)

HUD regulations contain a list of what must be included in the administrative plan. The PHA administrative plan must cover PHA policies on these subjects:

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

**UPDATING AND REVISING THE PLAN**

The Department will revise this administrative plan as needed to comply with changes in HUD regulations. The May 2016 Plan is being approved by the Department’s Governing Board (“Board”), the pertinent sections included in the Agency Plan, and a copy provided to HUD. Subsequent plan changes are authorized by the Department's Board to be implemented by either the Executive Director or Deputy Executive Director, of the Department, both duly authorized PHA officials.

**TDHCA Policy**

The Department will review and update the plan as needed, to reflect changes in regulations, PHA operations, and to ensure staff consistency in operation. The Plan may be approved for changes by the Deputy Executive Director or Executive Director as PHA Officials. Certain changes such as approval of a new service area or activity, or decisions where HUD requires Board approval will be taken back to the Department’s Board.
Chapter 2: FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations and other requirements governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964;
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988);
- Executive Order 11063;
- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975;
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern);
- Violence Against Women Reauthorization Act 2013 (“VAWA”); and

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. The US Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity in housing and employment.
The Fair Housing Policy of the Department is to comply fully with all federal and state non-discrimination laws and in accordance with the lawfully promulgated rules and regulations governing fair housing and equal opportunity in housing and employment, and with the Americans with Disabilities Act.

Specifically, the Department will not discriminate, based on race, color, religion, sex, handicap, familial status, or national origin, deny any family or individual the opportunity to apply for or receive assistance under HUD’s Section 8 programs, within the requirements and regulations of HUD and other regulatory authorities. To further its commitment to full compliance with applicable civil rights laws, the Department will provide access to information to Section 8 participants regarding “discrimination.” In addition, this subject will be discussed during the briefing session and any complaints will be documented and made part of the applicant/participant file.

TDHCA will comply with HUD’s requirement of Affirmatively Furthering Fair Housing. The PHA is not permitted to inquire about the nature or extent of a person’s disability [24 CFR §100.202(c)]. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file.

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

NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. TDHCA shall not discriminate because of race, color, sex, religion, familial status, age, disability, marital status, gender identity, sexual orientation, or national origin. 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.

The PHA 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 because they are members of a protected class.

**PROVIDING INFORMATION TO FAMILIES AND OWNERS**

The PHA will take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR §982.301]. The Housing Assistance Payments (“HAP”) contract informs owners of the requirement not to discriminate against any person because they are members of protected classes in connection with the contract.

**TDHCA Policy**

In order to affirmatively further fair housing, the Department must comply with the following:

1) The Department or its Local Operator (“LO”) representative shall provide all voucher recipients the HUD Fair Housing Guide that outlines the Fair Housing Act, protection available to persons with disabilities, and how to file a complaint.

2) The Department or its LO representatives offices display in English, Spanish, or other appropriate languages the Equal Housing Opportunity Posters. Posters describe fair housing law and how to file a complaint.

3) The Department or its Local Operator (LO) representative shall provide all applicants and voucher recipient’s information on how to file a fair housing complaint, including the provision of the toll-free number for the Fair Housing Complaint Hotline: 1-800-669-9777. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-887-8339.

**DISCRIMINATION COMPLAINTS**

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

**TDHCA Policy**

For families and/or individuals who report apparent discrimination in obtaining assisted housing, the Department or its Local Operator (“LO”) representative shall assist them by providing the family/individual with a HUD Housing Discrimination Information Form HUD-903.1. The individual can complete this form and report apparent discrimination to the Fort Worth HUD Office of Fair Housing and Equal Opportunity. The Department has a comprehensive website dedicated to Fair Housing information; tenants can find information there that will direct them to the appropriate contacts for complaints including the process outlined in 10 Texas Administrative Code (“TAC”) §1.2
PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act and Section 504 is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

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

TDHCA Policy

For those applicants or participants who require a type of accommodation, there will be a statement regarding requests for accommodations on the intake application, reexamination documents, and on various notices of adverse action by the Department. The statement will read:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact your assigned Regional Coordinator.” A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

DEFINITION OF REASONABLE ACCOMMODATION

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

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

TYPES OF REASONABLE ACCOMMODATIONS

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

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with TDHCA staff
- Displaying posters and other housing information in locations throughout the Local Operator’s offices in such a manner as to be easily readable from a wheelchair
REQUEST FOR AN ACCOMMODATION

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

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

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

TDHCA Policy

The Department will encourage the family to make its request in writing for a reasonable accommodation. However, the LO/Department representative will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. Information about requesting a reasonable accommodation will be included in the HCV client-briefing packet.

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 that is used for waiting list preferences and income allowances.

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

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

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

- Medical or other records not required by regulation will not be accepted or retained in the participant file.

APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION
Consistent with the joint statement of the Departments of HUD and Justice relating to reasonable accommodations under the fair housing act, the PHA must approve a request for an accommodation if the following three conditions are met:

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

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

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

**TDHCA Policy**

After a request for an accommodation is presented to the Department, the Department will communicate with the landlord and then respond, in writing, within 10 business days.

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

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

Protected health information will not be retained in particular files in the case of Project Access.

Complaints against owners that refuse to make a reasonable accommodation will be handled under the Department’s compliant process in 10 TAC §1.2 (if in a property that the Department monitors) and/or referred to the Texas Workforce Commission.

**PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

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

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

**TDHCA Policy**

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available via the Relay Texas service. Either a TTY user or a person using a standard phone may initiate a call through Relay Texas by dialing the relay number 711.

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.
PHYSICAL ACCESSIBILITY

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

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

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

- This plan describes the key policies that govern the PHA’s responsibilities with regard to physical accessibility.
- Notice PIH 2002-01 (HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities (in this case, the Department and any LO Offices) must conform, as applicable, to the Uniform Federal Accessibility Standards (“UFAS”) or the 2010 ADA Standards, with the exceptions outlined in with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" Federal Register 79 FR 29671. Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

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

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification (unless required by a different funding source) and may require that the unit be restored to its original state at the family’s expense when the family moves.

DENIAL OR TERMINATION OF ASSISTANCE

A PHA 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 informs them of the PHA 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 will inform them of the PHA informal hearing process and their right to request a hearing and reasonable accommodation.

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

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 based on national origin.


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

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

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

ORAL INTERPRETATION

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

TDHCA Policy

The Department 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.

WRITTEN TRANSLATION

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

TDHCA Policy

In order to comply with written-translation obligations, the Department will provide written Spanish or other appropriate language versions of all materials in the pre-application and tenant briefing packet.

Part IV: TDHCA POLICY – AFFIRMATIVELY FURTHERING FAIR HOUSING

OVERVIEW
The Texas Department of Housing and Community Affairs (the “Department”) is compliant with the U.S. Department of Housing and Urban Development’s requirements relating to Affirmatively Furthering Fair Housing in 24 CFR §903.7(o).

Offering Housing Choice Vouchers are one of the most responsive actions that TDHCA, as a Public Housing Authority, can take to offer meaningful housing choice and, thereby, overcome impediments to housing choice.

In areas of the Department’s jurisdiction where there are significant concentrations of low income and/or minority households, additional efforts may be taken to recruit and retain property owners in less concentrated areas to expand housing choice.
Chapter 3: ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Contain at least one family member who is either a U.S. citizen or has eligible immigration status before the PHA may provide any financial assistance.
  - Provide social security number information for family members in compliance with HUD’s Rent Reform Notice effective January 2010, unless the family member is 62 or older as of January 2010, and already receiving assistance or has received assistance under a covered housing program.
  - Consent to the PHA’s collection and use of family information as provided for in PHA-provided consent forms.
  - Be eligible for assistance in accordance with the restrictions on assistance to students enrolled in an institution of higher education status (24 CFR §5.612).

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

- Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of Voucher.

This chapter contains three parts:

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

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

- Part III: Denial of Assistance. This part covers factors related to an applicant’s past or current conduct (e.g., criminal activity) that can cause the PHA to deny assistance.
PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

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.

If a TDHCA policy listed below conflicts with requirements under the Violence Against Women’s Act 2013, TDHCA will follow federal law/regulation.

FAMILY AND HOUSEHOLD [24 CFR § 982.201(C), HUD-50058 IB, P. 13] FR NOTICE 02/03/12

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

Family. To be eligible for assistance, an applicant must qualify as a family. Family as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, a disabled person, near elderly person, or any other single person; or group of persons residing together.

Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the family), a near-elderly family, a disabled family, a displaced family, or the remaining member if a tenant family. The Department has the discretion to determine if any other group of persons qualifies as a family. Gender Identify means actual or perceived gender characteristics. Sexual orientation means homosexuality, heterosexuality, or bisexuality.

TDHCA Policy

The term “family” as used in this policy means either a single person or a group of persons:

1. Sharing a residence whose income and resources are available to meet the family’s needs and who are related by blood, marriage, or operation of law (such as guardianship, adoption, etc.), or who show evidence of a stable family relationship. Evidence of “stable family relationship” may include any of the following: birth certificates of the children, joint tax return, prior lease held jointly, joint bank accounts, insurance policies or equivalent documentation as determined by the Department. This includes a household with or without children, (the temporary absence of a child from the home due to placement in foster care should be considered a member of the family).

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

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

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.

TDHCA 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. 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.

**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.

**TDHCA 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, and has the legal capacity to enter into a lease under State/local law. A family can have only one co-head.

**TDHCA 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.

**FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY**

_Family Break-up [24 CFR §982.315]_

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

**TDHCA 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 between the original family members, the Department 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.

**TDHCA Policy**
The Department will transfer the voucher to the qualified person(s), remaining in the subsidized unit after the person(s) who signed the voucher has/have left the premises, other than by eviction. The transfer of assistance is not automatic, but conditional based on whether the remaining person qualifies for assistance on his or her own merit. In most cases an individual must have received housing subsidy under the program to which he/she claims head of household status for one year before becoming eligible for Section 8 HCV subsidy as a remaining family member. The Department will address each request for a transfer of assistance for remaining family members on a case-by-case basis. In addition, this person must complete forms necessary for HCV assistance within ten calendar days from the departure of the leaseholder and may remain in the unit for a reasonable time (not more than 60 calendar days from the date individual requests head of household status) pending the verification and hearing process. This person must, upon satisfactory completion of the verification process, execute all required HCV subsidy documents and cure any monetary obligations in order to maintain assistance. Any person who claims him/herself as a remaining member shall, in the event that the Department declares him/her ineligible for remaining member status, be entitled to an informal hearing. The informal hearing process is described in Chapter 16, Section III.C.

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.”

**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.

An unborn child shall not be considered a dependent. 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 Managing Conservatorship of Dependents**

**TDHCA Policy**

Dependents that are subject to a joint managing conservatorship and are with the family at least 50% of the time will be considered a member of the family for purposes of voucher size determination.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary conservatorship at the time of the initial examination or reexamination will be able to claim the dependents for income determination purposes. If there is a dispute about which family should claim them, the Department 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.

**FULL-TIME STUDENT [24 CFR §5.603, HVC GB P. 5-29 AND 5.880]**

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The educational institution defines the time commitment or subject load that is needed to be full-time. The attended educational institution will supply verification.

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.

**Elderly and Near-Elderly Persons, and Elderly Family [24 CFR §§5.100 and 5.403 FR Notice 02/03/12]**

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

A near-elderly person is a person who is at least 50 years of age but below the age of 62.
An elderly family is one in which the head, spouse, co-head, or sole member is at least sixty-two years of age, or disabled or handicapped and may include two or more elderly, disabled or handicapped persons living together, or one or more such persons living with a live-in aide who is determined to be essential to his or her care and well being. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

**Persons with Disabilities and Disabled Family [24 CFR §5.403, FR Notice 02/03/2012]**

**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 for the purposes are provided in Chapter 2.

These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

**Person with disabilities:**

1. Means a person who:
   1. Has a disability, as defined in 42 U.S.C. §423;
   2. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
      1. Is expected to be of long-continued and indefinite duration;
      2. Substantially impedes his or her ability to live independently, and
      3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

2. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

3. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

4. Means “individual with handicaps,” as defined in 24 CFR §8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

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

**Disabled Family**

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 the PHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

**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 so to consent.

**TDHCA Policy**

The length of stay for guests is usually defined by the landlord and indicated in their lease. For the Department HCV program purposes, a guest can remain in the assisted unit no longer than 30 calendar days in a 12-month period. If any individual remains in the unit for more than 30 consecutive days, the head of household must report in writing the additional person(s), and request approval from the owner/manager and the Department to add the family member to the lease and recalculate eligibility. Each
visit cannot exceed 14 consecutive days except for guests and their dependents seeking temporary sanctuary from family violence, as defined by Section 71.004, of the Texas Family Code, for a period that does not exceed thirty days.

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 51 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 30 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.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 90 days per year without being considered a member of the household.

**FOSTER CHILDREN AND FOSTER ADULTS**

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

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

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

**TDHCA 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.

The Department will consider whether the addition of a new occupant will require the issuance of a new voucher.

Children that are temporarily absent from the home because of placement in foster care are discussed in Section 3.

**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**

**TDHCA Policy**

Generally, an individual who is, or is expected to be, absent from the assisted unit for 90 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 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Families participating in the program may be absent for a period of 14 calendar days without notifying the LO or Department. If the family anticipates being absent for more than 14 consecutive calendar days, the head of household must request written permission from the LO/Department prior to leaving the assisted unit. The written request must be submitted 15 calendar days in advance of the anticipated absence. The Department may approve absences in excess of 14 consecutive calendar days for vacation, hospitalization or
other good cause. The Department will respond in within 10 calendar days of the receipt of the written request.

**Note** – If an emergency exists, such as hospitalization, the head of household must notify the Department as soon as possible. Verbal request for determination may only be made in emergencies. The Department will respond verbally and follow-up its verbal determination in writing within 10 calendar days of the verbal request.

**Absent Students**

**TDHCA Policy**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Department 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 because of placement in foster care are considered members of the family.

**TDHCA Policy**

If a child has been placed in foster care, the Department 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**

**TDHCA Policy**

An employed head, spouse, or co-head absent from the unit more than 90 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].

**TDHCA Policy**

The Department 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**

**TDHCA Policy**

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

**Absence Due to Incarceration**

If a household has only one member and that member is convicted for more than 45 consecutive days, he or she will be considered permanently absent.
Any member of the household, other than a sole member, will be considered permanently absent if he or she is incarcerated for 45 consecutive days. The Department will determine if the reason for incarceration is for drug-related or violent criminal activity, which may result in the termination of assistance prior to the 45 consecutive days.

**LIVE-IN AIDE (24 CFR §982.316)**

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] and must be 18 years of age.

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR Part 8, to make the program accessible to and usable by the family member with 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 (see Section 3-I.C.) of a tenant family.

**TDHCA Policy**

Written verification of the need for a reasonable accommodation will be required from a reliable, knowledgeable professional, such as a doctor, nurse practitioner, social worker, or caseworker, that the live-in aide is essential for the care and well-being of the elderly, near elderly (50-61), or disabled family member.

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

The Department may refuse to approve a particular person as a live-in aide, and may withdraw prior approval if [24 CFR §982.316(b)]:

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

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

**PART II: BASIC ELIGIBILITY CRITERIA**

**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**

- **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 higher of the federal poverty level or 30 percent of area median income, adjusted for family size.

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

**USING INCOME LIMITS FOR ELIGIBILITY [24 CFR §982.201(B)]**

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]

**TDHCA Policy**

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

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

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

**TDHCA Policy**

The Department will provide Housing Choice Vouchers promptly to income eligible individuals and families in communities impacted by a disaster which may include, but is not limited to, communities with a disaster declaration or documented extenuating circumstances such as imminent threat to health and safety.

The preference will cover only the areas where the Department currently has oversight on the Section 8 program. Requests for the preference must be made within 90 days of the disaster and may result in the disaster impacted person or family receiving assistance before someone currently in a waiting list.

The Department also provides a preference for Project Access applicants. The Project Access program utilizes Section 8 Housing Choice Vouchers administered by TDHCA to assist low-income persons with disabilities in transitioning from institutions into the community by providing access to affordable housing.

**USING INCOME LIMITS FOR TARGETING [24 CFR §982.201(B)]**

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

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.
An applicant will not be offered Section 8 assistance under the following circumstance - If the applicant’s annual family income exceeds the income limits established by HUD and published in the Federal Register, the applicant will be declared ineligible.

**CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR PART 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 non-citizens that have eligible immigration status. At least one family member must be a citizen, national, or non-citizen with eligible immigration status in order for the family to qualify for any level of assistance.

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

**Declaration [24 CFR §5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, 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 non-citizens. For citizens, nationals and eligible non-citizens the declaration must be signed personally by the head, spouse, co-head, 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 Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

**U.S. Citizens and Nationals**

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

**TDHCA Policy**

In addition to signing a citizenship declaration, family members who declare citizenship or national status may be required to provide any of the following additional documentation upon the Department’s request:

- a. United States passport;
- b. Resident Alien card;
- c. Registration card;
- d. Social Security card; or
- e. Other appropriate documentation.

**Eligible Non-citizens**

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible non-citizen 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].
Per the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) signed into law on October 28, 2000, victims of trafficking are eligible to benefits to the same extent as eligible non-citizen refugees.

**TDHCA Policy**

The Department must conduct primary verification of eligible immigration status through the INS automated system, Systematic Alien Verification for Entitlements (“SAVE”).

Persons claiming eligible immigration status must provide all of the following evidence:

- The signed declaration of eligible immigration status;
- One of the Department of Homeland Security documents specified in SAVE requirements, such as:
  - Immigrant status under Sections 101(a)(15) or 101(a)(20) of the INA;
  - Permanent residence under Section 249 of INA;
  - Refugee, asylum, or conditional entry status under Sections 207, 208 or 203 if of the INA;
  - Parole status under Section 212 (d)(5) of the INA;
  - Threat to life or freedom under Section 243(h) of the INA; or
  - Amnesty under Section 245A of the INA.
- A signed verification consent form describing transmission and use of the information obtained.

If the SAVE system does not confirm eligible immigration status, the Department must request that a manual search be conducted of Department of Homeland Security records. The Department must request the secondary verification (manual search) by Department of Homeland Security within ten calendar days of receipt of the initial failed verification. Department of Homeland Security is expected to issue a decision within 30 days of its receipt of the request for a secondary verification. If the secondary verification fails to confirm eligible immigration status, the Department shall notify the family of the right of appeal to Department of Homeland Security. If the Department of Homeland Security is unable to issue a decision within 30 days, the Department of Homeland Security INS will inform the family and the Department of the reasons for the delay.

When the Department receives a copy of the Department of Homeland Security decision (and the decision does not confirm the declaration of eligible immigration status), the Department will notify the family of its right to request an informal hearing. The informal hearing process will be detailed in Chapter 16.

1. Assistance to an applicant may not be delayed, denied, or terminated, if:
   a. The primary and secondary verification of any immigration documents that were submitted in a timely manner has not been completed;
   b. The family member of whom required evidence has not been submitted has moved;
   c. The family member who is determined not to be in an eligible immigration status following Department of Homeland Security verification has moved;
   d. The Department of Homeland Security appeals process has not been concluded;
   e. For a tenant, the Department hearing process has not be concluded;
   f. Assistance is prorated; and/or
   g. Assistance for a mixed family is continued.

2. Assistance to an applicant shall be denied and a tenant’s assistance shall be terminated upon the occurrence of any of the following:
a. Evidence of citizenship (i.e., the declaration) is not submitted in a timely manner;

b. Evidence of citizenship and eligible immigration status is submitted in a timely manner, but Department of Homeland Security primary and secondary verification does not verify eligibility immigration status;

c. The family does not pursue Department of Homeland Security appeal or LO information hearing rights; and/or

d. Department of Homeland Security appeal and informal hearing rights are pursued, but the final appeal or hearing decision is decided against the family member.

3. Notice must be given to the family and shall advise:

a. That financial assistance or housing will be denied or terminated, and provide a brief explanation of the reasons;

b. That they may be eligible for proration of assistance;

c. In the case of a tenant, the criteria and procedures for obtaining relief for mixed families and other families; and

d. Any future appeal rights have been exercised.

Note: An applicant family without any citizens or members with eligible immigration status is not eligible for assistance.

Ineligible Non-citizens

Those non-citizens 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 co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member’s ineligible status and is not required to report an individual’s unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to non-citizen students is prohibited [24 CFR §5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student.

Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen 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 non-citizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

INELIGIBLE FAMILIES [24 CFR 5.514(D), (E), AND (F)]

A PHA may elect to assist a family before the verification of the eligibility of the individual or one family member [24 CFR §5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR §5.512(a)].

TDHCA Policy

The Department will not assist a family before the verification of at least one family member. When the Department determines that an applicant family does not include any citizens, nationals, or eligible non-
citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

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

Informal hearing procedures are contained in Chapter 16.

**TIMEFRAME FOR DETERMINATION OF CITIZENSHIP STATUS [24 CFR 5.508(G)]**

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

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

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

**TDHCA Policy**

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

**SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND 5.218] NOTICE PIH 2012-10**

Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the family, the family must submit the new member’s SSN documentation at the time they are added to the household. If any member of the family obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted within 30 calendar days or any approved extensions. Extensions shall not be for more than 60 additional days.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR §5.216. The PHA must terminate assistance of the entire family even if only one member of the family fails to provide required documentation for a social security number. Note: These requirements do not apply to noncitizens that do not content eligible immigration status.

**FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, P. 5-13]**

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

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

**TDHCA Policy**

A consent form must be completed whenever a new adult joins an HCV household. Whenever a current household member turns 18 years of age, they will not be required to sign a consent form until the family’s
annual appointment unless they are earning income, which would require them to report their income within 30 days of turning 18.

**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 establish restrictions related to the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student’s eligibility must be examined along with the income eligibility of the student’s parents.

In these cases, both the student and the student’s parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with the PHA policy, the income of the student’s parents will not be considered in determining the student’s eligibility.

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

**Definitions**

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

**Dependent Child**

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

**Independent Student**

**TDHCA Policy**

The Department 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 criteria are all met:

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

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

- Be at least 24 years old by December 31 of the award year for which aid is sought.
- Be an orphan or a ward of the court through the age of 18.
- Be a veteran of the U.S. Armed Forces.
- Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
• Be a graduate or professional student.
• Be married.
• Is a person with disability and was receiving assistance under Section 8 of the 1937 Act as of November 30, 2005.
• The individual/student 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/student provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The PHA will verify that a student meets the above criteria in accordance with the policies in Section 7.

Institution of Higher Education

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

Parents

**TDHCA 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, foster parents, godparents, etc).

Veteran

**TDHCA Policy**

A veteran is a person who served in the active military, naval, national guard, 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, PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR §5.612. If the student is subject to those restrictions, PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student’s parents are income eligible for the program, and (3) the “family” with which the student is applying is collectively eligible for the program.

**TDHCA Policy**

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

• Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligible for the program.

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

• Follow the policies below, if applicable, in determining whether the student’s parents are income eligible for the program.
• If the PHA determines that the student, the student’s parents (if applicable), or the student’s “family” is not eligible, PHA 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 14.

Determining Parental Income Eligibility

**TDHCA Policy**

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

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

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

• If the student’s parents are divorced or separated, PHA 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, PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

**OTHER CRITERIA FOR ADMISSIONS [24 CFR §982.552(B)]**

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum)

**PART III: DENIAL OF ASSISTANCE**

**OVERVIEW**

A family that does not meet the following eligibility criteria discussed in Parts I and II, must be denied assistance. In addition, HUD requires or permits the PHA 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, or

• Refusing to process a request for or to provide assistance under portability procedures.
**Prohibited Reasons for Denial of Assistance [24 CFR §982.202(b)]**

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

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

**MANDATORY DENIAL OF ASSISTANCE [24 CFR §982.553(A)]**

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

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

**TDHCA Policy**

The Department will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if the Department is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Department, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs, including the distribution, possession, or sale.

**TDHCA Policy**

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

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

**TDHCA Policy**

The Department will consider all credible evidence, including but not limited to, any record of convictions, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. The Department may waive admission/denial if:

- the person demonstrates to the Department’s satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
- has successfully completed a supervised drug or alcohol rehabilitation program; or
• has otherwise been rehabilitated successfully, is participating in a supervised drug or alcohol rehabilitation program.

• 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

• Failure to provide verification of social security number as required by HUD via HUD’s Rent Reform Notice effective January 2010.

OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Criminal Activity [24 CFR §982.553]

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member has been convicted during a reasonable time before the family would receive assistance, certain types of criminal activity.

TDHCA Policy

If any household member has been convicted in any of the following criminal activities within the past five (5) years, the family will be denied assistance.

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

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

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

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

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

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

Conviction 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 record that an applicant or household member has been paroled or released from a facility for violence to persons or property within the past three (3) years.

In making its decision to deny assistance, the Department will consider the factors discussed in this section. Upon consideration of such factors, the Department may, on a case-by-case basis, decide not to deny assistance.

PREVIOUS BEHAVIOR IN ASSISTED HOUSING [24 CFR §982.552(C)]

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

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

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

- The family does not provide information that the Department or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the Department.
- Any family member has been evicted from federally assisted housing in the last five (5) years.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or state housing program.
- The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with the Department or an owner, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- The family has failed to meet the eligibility criteria described in Section II of this chapter.
- The family has failed to provide information required within the period specified (the applicable dates are contained in the letters from the Department) in the application process.
- The family has refused to sign or submit required consent forms that are provided by the Department for verifying employment and income information.
- The family has violated any family obligation listed on the Housing Choice Voucher.
- A household member is subject to the State of Texas Sex Offender Statue and/or any other state registration requirements where the family member is known to have resided.
- A family member has engaged in or threatened violent or abusive behavior toward Department personnel.

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

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

In making its decision to deny assistance, the Department will consider the factors discussed in this section. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.
Time Frames for Denial

Generally, applicants may be denied admission to the program for the following time frames, which shall begin on the date of application, unless otherwise provided for herein below:

1. Denied admission for one year for violation of voucher and illegal use, or possession for personal use, of a controlled substance or abuse of alcohol.

2. Denied admission for three (3) years for the following:
   
   Persons evicted from Public Housing, Indian Housing, Section 8 program, or Section 23 programs because of drug-related criminal activity are ineligible for admission for a three-year period beginning on the date of such eviction.

   The Department can waive this requirement if the person demonstrates to the Department’s satisfaction successful completion of a rehabilitation program approved by the Department, or the circumstances leading to the eviction no longer exist.

3. Denied admission for five (5) years for the following:

   a. Fraud – giving false information on the application, failure to report changes in household composition or income is considered fraud;

   b. An arrest or conviction record that indicates that the applicant may be a threat and/or negative influence on other residents. The five years shall begin on the date of the last reported act, completion of sentence and/or probation period;

   c. 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

4. Denied admission for ten (10) years for a conviction of drug trafficking;

5. Denied admission for life to any household that includes any individual who is subject to a lifetime registration requirement under a state sex offender registration program; or

6. Denied admission for life to any applicant who has been convicted of manufacturing or producing methamphetamine (commonly referred to as “speed”) on the premises of the assisted housing. A premise is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.

Screening for Eligibility

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

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

If the PHA proposes to deny assistance based on a criminal record or 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 applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].
Screening for Suitability as a Tenant [24 CFR §982.307]

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

TDHCA Policy

The Department will not conduct additional screening to determine an applicant family’s suitability for tenancy; owners will be responsible for determining suitability.

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

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

HUD permits the PHA 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.

TDHCA Policy

The Department will inform owners of their responsibility to screen prospective tenants, and may provide, upon request in writing by owner, the family’s current address and the name and address of the landlord at the family’s current and prior addresses as indicated in the Department’s records.

CRITERIA FOR DECIDING TO DENY ASSISTANCE EVIDENCE [24 CFR §982.553(C)]

TDHCA Policy

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

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

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

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

TDHCA Policy

The Department will consider the following factors when 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;

The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future; and
In the case of drug or alcohol abuse, whether the culpable household member is participating in, has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

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

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

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

TDHCA 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 Department request.

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

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

TDHCA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the Department will determine whether the behavior is related to the disability. If so, upon the family’s request, the Department will determine whether alternative measures are appropriate as a reasonable accommodation. The Department 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.

NOTICE OF ELIGIBILITY OR DENIAL

Eligible for Assistance

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

If the Department determines that a family is not eligible for the program for any reason, the family will be notified promptly in writing. The notice will describe (1) the reasons for which assistance has been denied (2) the family’s right to an informal review, and (3) the process for obtaining the informal review [24 CFR §982.554 (a)]. If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record [24 CFR §982.553(d)].

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

TDHCA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination. The denial letter will allow the applicant ten (10) calendar days to request an informal review (in writing) with the Department. See Chapter 16, for informal review policies and procedures.
The Violent against Women Reauthorization Act of 2013 (“VAWA”) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, sexual violence, dating violence, sexual assault or stalking. VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

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

Definitions as used in VAWA:

The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

The term dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

The term stalking means:

- To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate;
- To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
- In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

The term immediate family member means, with respect to a person:

- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any other person living in the household of that person and related to that person by blood and marriage.

Person with Disabilities [24 CFR §5.403]

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]/Person With A Disability

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 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, because 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. The Americans with Disabilities Act definition [28 CFR §35.104] for **Disability** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

   (1) (i) The phrase **physical or mental impairment** means

      (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, genitourinary, hemic and lymphatic, skin, and endocrine;

      (B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

      (ii) The phrase **physical or mental impairment** includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

      (iii) The phrase **physical or mental impairment** does not include homosexuality or bisexuality.

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

(3) The phrase **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) The phrase **is regarded as having an impairment** means—
(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

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

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

(5) The term disability does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.
Chapter 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

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

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

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

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

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

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

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

PART I: THE APPLICATION PROCESS

OVERVIEW

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

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 the PHA to determine the format and content of HCV applications, as well as, how such applications will be made available to interested families and how the PHA will accept applications. Form HUD-92006, Supplement to Application for Federally Assisted Housing, as an attachment to the Department’s application.

TDHCA Policy

Due to the demand for housing throughout the State of Texas, the Department takes applications on an “open enrollment” basis, depending on the length of the waiting list. Preliminary applications (pre-apps) are taken by the Department in order to compile a waiting list. The Department may elect to skip the pre-
application and use only the full application. When the family comes to the top of the waiting list and the Department is ready to issue a Voucher, the family must have completed the full application. The family will also be required to complete a Personal Declaration Form.

1. Applications will be accepted at the LO/Department’s designated location only during the times and on the days according to information posted throughout the community. Applications are dated in accordance to the date and time the applicant submits the completed application. The LO/Department will maintain a designated telephone number where interested persons can receive specific directions on how and when to apply.

2. Individuals who have a physical impairment which would prevent them from making an application in person may call the LO/Department to make special arrangements to complete their application. A Telecommunications Device for the Deaf (TDD) is available for the deaf.

3. Any family requesting an application for Section 8 HCV rental assistance will be given the opportunity to apply as long as the waiting list is open and the LO/Department is accepting applications.

ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

Limited English Proficiency

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA’s policies related to ensuring access to people with limited English proficiency (LEP).

PLACEMENT ON THE WAITING LIST

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

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

Ineligible for Placement on the Waiting List

TDHCA Policy

If the Department or LO can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the Department will send written notification of the ineligibility determination within 10 business days of receiving the complete application from the Department or LO at the Department headquarters. 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

**TDHCA Policy**

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

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

Applicants will be placed on the waiting list according to the date and time their preliminary application is received by the Department.

The Department will admit a household not on the waiting list or without consideration for a household’s placement on the waiting list if HUD has awarded funding that is targeted for families living in specific units. [24 CFR 982.203]

**PART II: MANAGING THE WAITING LIST**

**OVERVIEW**

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

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

**ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 AND 205]**

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

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

- Applicant name;
- Family unit size (number of bedrooms for which family qualifies under occupancy guidelines);
- Date and time of application;
- Qualification for any preference, if applicable;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality; such PHAs, like the Department, are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

**TDHCA Policy**

The Department currently maintains eight waiting lists that cumulatively cover the Department’s entire PHA jurisdiction. Six of the lists are geographically based and are as follows: Ennis, Galveston, Navasota, Waxahachie, AACOG, and the Balance of Jurisdiction. The two remaining lists are for Project Access and the Veterans Administration Supportive Housing (VASH) project list, which are open to receive applications on an ongoing basis. Each list is maintained separately. If additional areas are absorbed by the Department from other voucher administering entities, they will initially be handled as another independent geographic waiting list (e.g., would be a new seventh list) until the list when transferred is depleted, at which time it will merge into the Balance of Jurisdiction. It is the long term goal of the Department that the
geographically based lists be merged as the individual waiting lists are depleted. Until that occurs, issuance of a voucher rotates in order through the six lists. For instance if six vouchers are being made available, each of the six areas would receive one. Waiting list households will be offered a voucher in that rotating order until a wait list is depleted, at which time the geographic area covered by that wait list will be blended into the Balance of Jurisdiction. The Balance of Jurisdiction list may be opened for enrollment periodically during this time to ensure voucher opportunities across the entire jurisdiction, however the other five geographic areas that have their own lists will not be reopened (except possibly as a reasonable accommodation or to serve a VAWA household). Only upon their depletion and then absorption into the Balance of Jurisdiction would enrollment possibly be reopened, or in the case of a waiting list area with an LO assisting with administration would the Department possibly authorize a reopening of the existing separate waiting list.

When the Department permanently absorbs vouchers from another housing authority and is reassigned the ACC by HUD, the waiting list will be maintained, in its existing order, but will not be further expanded, which is the case with both the Navasota and AACOG lists.

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

**TDHCA Policy**

The Department also operates a Section 811 Program. Applicants who may have extended wait times for the Section 8 Program and are recipients of SSI will be evaluated by the Section 811 staff for possible eligibility for that program.

**OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]**

*Closing the Waiting List*

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

**TDHCA Policy**

If the LO/ or Department is taking applications, they may suspend the taking of applications, with the Department’s approval, if the waiting list is such that additional applicants are not expected to be housed within the next 12 month period.

*Reopening the Waiting List*

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

**TDHCA Policy**

The Department will announce the reopening of any of its waiting lists as least 10 business days prior to the date applications will first be accepted.

The Department will give public notice by publishing the relevant information regarding the availability and nature of housing assistance for eligible families in suitable media outlets including, but not limited to, newspapers of general circulation, minority media, other suitable media outlets, and other local governments or nonprofits that assist low income households in the target area through the Department’s listserv.
To reach persons who cannot read the newspapers, the LO representative will distribute fact sheets to community based organizations providing assistance to the target group.

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

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

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

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

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

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

**TDHCA Policy**

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

**APPLICATION PERIOD**

**TDHCA Policy**

The application taking and closing date will be determined administratively at the same time that the Department determines to open one or more of its waiting lists. The open enrollment period shall be long enough to allow enough applicants as required by the turnover and the number of Section 8 HCV allocated to apply.

**REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

**TDHCA Policy**

While the family is on the waiting list, the family must immediately inform the Department of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.
UPDATING THE WAITING LIST [24 CFR 982.204]

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

Purging the Waiting List

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

TDHCA Policy

To insure that the Department’s waiting lists reflects the most current applicant information the waiting list will be updated and purged every twelve (12) months.

To update the waiting lists, the Department will send an update request via 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 LO and the last address that the LO/Department has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant’s name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the Department no later than 10 business days from the date of the Department letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 10 business 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 HCV Program Director may reinstate the family if s/he determines the lack of response was due to Department error, or to circumstances beyond the family’s control.

Greater flexibility in these criteria may be provided in the case of Project Access vouchers or to others as a reasonable accommodation.

Removal from the Waiting List

TDHCA Policy

The Department will remove an applicant’s name from the waiting list for the following:

1. Applicants who do not respond to the Department’s request for information or updates; or
2. Applicants who refuse the Department’s offer of tenant-based assistance.
3. If the Department determines that the family is no longer eligible for assistance (see Chapter 3).

If a family is removed from the waiting list because they have failed to respond to the Department’s request for more information/updates or the Department has determined that they are no longer eligible for assistance, a notice will be sent to the family’s address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family that they have ten (10) calendar days from the date of the written correspondence to request an informal review of the Department’s decision (see Chapter 16) [24 CFR 982.201(f)].
The correspondence will indicate that their name will be removed from the waiting list if they fail to respond within the time frame specified. The applicant may reapply if the waiting list is open. If the waiting list is closed, the applicant will have to wait to reapply. The Department will place a public notice in the local newspaper on where and when families may apply for the program.

The Department’s system of removing applicants’ names from the waiting list WILL NOT violate the rights of a disabled person(s). If an applicant’s failure to respond to a request from a LO representative for information or updates was caused by the applicant’s disability, the LO representative will provide reasonable accommodations and give the applicant an opportunity to respond. An example of a reasonable accommodation would be to allow an applicant to be reinstated on the waiting list based on the original date and time of their application, if the applicant indicates that they did not respond due to a disability. If the disability is not apparent, the LO representative may request the applicant to have a doctor submit a written statement indicating that the applicant did not respond due to their disability.

PART III: SELECTION FOR HCV ASSISTANCE

OVERVIEW

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

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

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

SELECTION AND HCV FUNDING SOURCES

Targeted Funding [24 CFR §982.204(e)]

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

TDHCA Policy

If HUD awards the Department program funding that is targeted for families living in specified units:

a. The Department must use the assistance for the families living in these units;

b. The Department may admit a family that is not on the Department’s waiting list, or without considering the family’s waiting list position. The Department must maintain records showing that the family was admitted with HUD-targeted assistance;

c. For housing covered by the Low-Income Housing Preservation and Resident Home Ownership Act of 1990 (41 USC §4101 et seq.);

d. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

e. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

f. Any other family required to be housed at the direction of HUD, as directed by a court of law, or part of a TDHCA conciliation agreement.
Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. The Department must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the Department may skip families that do not qualify within the targeted funding category. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

TDHCA Policy

The Department will use the following types of targeted funding:

Mainstream HCV vouchers
Non-Elderly vouchers

SELECTION METHOD

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

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

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

TDHCA Policy

The Department will first issue specified category until the Department has assisted the required number of special purpose vouchers. Non-specified category vouchers will use the following local preferences for purposes of establishing priority.

The Department will leave the Project Access waiting list open for certain preference groups as needed to meet the preference caps listed below.

Non-Elderly Disabled Program vouchers (targeted funding) waiting list policy:

For the issuance of Non-Elderly Disabled (“NED”) vouchers, only applicants certified eligible for NED Vouchers will be issued a NED voucher. To be an eligible application for a NED voucher, Department will have to receive both a completed application and a completed referral from the Texas Health and Human Services Commission.

Until both are received, the application will not be considered an eligible application. The applicant will only be placed on the waiting list once both documents have been received. Therefore, NED eligible applicants are granted a preference over all other applicants not eligible for NED vouchers. Applicants certified eligible for the NED vouchers will be coded as such on Department’s waiting list. This preference will be Texas Department of Housing and Community Affairs Housing Choice Voucher Program granted only for the issuance of NED vouchers and not any other voucher. If NED vouchers are not available, NED eligible families will maintain their original place on the waiting list for the issuance of non-NED vouchers. All families granted a NED preference will be prioritized based on date and time of being certified eligible and any other applicable preference (elderly, disabled, displaced, homeless, residency).

(a.) Identifying NED eligible families currently on the Department’s HCV waiting list

(i) upon receipt of the list of NED families referred by Texas DADS through ARCIL, Department will compare the names with those of families already on Department’s HCV waiting list. Any family currently on the HCV waiting list that matches the referral list, will be coded as NED, and will be granted a NED preference for NED vouchers. For issuance of non-NED vouchers, these applicants will be assisted in order of their original position on Department’s HCV waiting list
accordance with Department’s admissions policies. Therefore they will not lose their original position on the waiting list as a result of receiving a NED preference.

(ii) Department will identify families on Department’s HCV waiting list that may be eligible for NED, through a mail-out of an informational letter about the NED program and its eligibility factors, and then refer self-identified families to ARCIL for determination of whether they meet NED eligibility requirements; Department will work with and provide information to local community agencies providing services to families and individuals transitioning out of nursing homes, to determine if they are providing interim housing services to qualifying families who are on the HCV waiting list, and may be NED eligible, but have not yet received a voucher.

(b.) Placing NED eligible families referred by ARCIL on Department’s HCV waiting list:

Those eligible applicants on the current waiting list will have priority over families not on the waiting list. If additional funding is available, and all eligible families on the waiting list are exhausted, the waiting list will be reopened for NED eligible families only. Eligibility for the NED vouchers will be based on the respective HUD Notice of Funding Availability and may be limited to referrals from the Texas Department of Aging and Disability Services and their service partners. When Department receives a completed application and referral, the applicant will be placed on the waiting list after all lottery applicants and in order according to the date and time when Department first had received both documents.

If a family coded as NED ceases to meet the criteria for NED eligibility before the Texas Department of Housing and Community Affairs Housing Choice Voucher Program family has moved into an assisted unit, DEPARTMENT will remove the NED coding. If the family was previously on the waiting list, they will maintain their original place on the waiting list. If the family was only on the waiting list due to a NED referral, they will be removed from the waiting list or lose their voucher if already issued.

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

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

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

TDHCA Policy

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

Order of Selection

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

TDHCA Policy

1. When a HCV is available, the Department will select the family at the top of the waiting list. The order of admission from the waiting list IS NOT based on family size, or on the family unit size for which the family qualifies for under the occupancy guidelines. If the Department does not have sufficient funds
to subsidize the family unit size of the family at the top of the waiting list, the Department WILL NOT skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

2. However, the provisions of the Income Targeting/Deconcentration Rule, contained within this policy, shall supersede the selection of applicants based on date and time, and allow the Department to skip families on the waiting list to accomplish this goal.

**NOTIFICATION OF SELECTION**

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

**TDHCA Policy**

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

- The Department contact information (name, phone number and address) in order to set up the initial 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; and
- Other documents and information that should be brought to the interview.

If a notification letter is returned to the Department with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family’s address of record, as well as to any known alternate address.

**THE APPLICATION INTERVIEW**

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

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

**TDHCA Policy**

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

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the Department. For this reason all family members who are 18 or over are strongly encouraged to attend the interview.

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

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

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission
deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen 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 with in the required time frame (plus any extensions) to the Department, the family will be sent a notice of denial (See Chapter 3) for housing assistance.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Where an advocate, interpreter or other third party is used to assist the family, the family and the Department will execute a certification attesting to the role and assistance of the third-party.

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

If the family is unable to attend a scheduled interview, the family should contact the Department in advance of the interview to schedule a new appointment. If a family does not attend a scheduled interview, the Department will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without the Department’s 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.

**COMPLETING THE APPLICATION PROCESS**

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

**TDHCA Policy**

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

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The Department will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.
CHAPTER 5: BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

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

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

OVERVIEW

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

BRIEFING [24 CFR 982.301]

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

TDHCA Policy

Briefings may be conducted either in groups or in individual meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the LO/Department may approve another adult family member such as the co-head to attend the briefing.

Families that attend group briefings and still need individual assistance will receive further guidance/instruction from the Department.

Briefings will be conducted in English. However, for Limited English Proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA’s LEP plan (See Chapter 2) or provide an individual meeting.

Page 56 of 259
Notification and Attendance

**TDHCA 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 location, date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family’s address of record, as well as to any alternate address provided on the initial application.

Failure to attend a scheduled briefing (without notice to the Department) will result in the family’s application being placed in an inactive status and the family may be required to reapply for assistance. Applicants who provide prior notice of an inability to attend a briefing will be scheduled for the next briefing. The Department will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without Department approval, will be denied assistance (see Chapter 3) and will be removed from the waiting list.

Failure of an applicant, without good cause, to participate in a scheduled briefing shall result in withdrawal of his/her application. The applicant will be notified of such withdrawal and determination of ineligibility and of his/her right to an informal review (see Chapter 16).

*Oral Briefing [24 CFR 982.301(a)]*

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA’s jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

*Briefing Packet [24 CFR 982.301(b)]*

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

- The term of the voucher, and the PHA’s policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- What the family should consider in deciding whether to lease a unit, including:
  - The condition of the unit,
  - Whether the rent is reasonable,
- The cost of any tenant-paid utilities and whether the unit is energy-efficient, and
- The location of the unit, including proximity to public transportation (if applicable), centers of employment, well rated schools and shopping, proximity to or availability of any needed supportive services, or other indicators of high opportunity areas.

- Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

Additional Items to be Included in the Briefing Packet

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

**TDHCA Policy**

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

- Information on how to fill out and file a housing discrimination complaint form.
The publication *Are You A Victim of Housing Discrimination? (HUD-903.1)* that explains the types of actions a family must avoid and the penalties for program abuse.

**FAMILY OBLIGATIONS**

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

**Time Frames for Reporting Changes Required By Family Obligations**

**TDHCA Policy**

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

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

**Family Obligations [24 CFR 982.551]**

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

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

**TDHCA Policy**

Damages beyond normal wear and tear will be considered to be damages that could be assessed against the security deposit.

If the cost to repair damages beyond normal wear and tear exceeds the security deposit amount paid by the HCV participant, the owner must notify the Department and provide proper documentation of costs.

- Once the Department reviews the documentation and determines that excessive damages have occurred, the Department may decide to not allow the HCV participant to move until damages are paid. The Department may also terminate the HCV participant's assistance, or try to facilitate a repayment agreement between the owner and HCV participant. The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

**TDHCA Policy**

The Department will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner’s notice to evict.
Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.
  
  **TDHCA Policy**
  
  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Department at the same time the owner is notified.

- The family must promptly give the PHA 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 PHA must approve the composition of the assisted family residing in the unit. The family must promptly notify the PHA in writing of the birth, adoption, foster child/adult long-term placement, marriage, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.
  
  **TDHCA Policy**
  
  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The Department will determine eligibility of the new member in accordance with the policies in Chapter 3.

  Once an applicant becomes a participant in Department’s tenant-based program, the head of household must request permission in writing to add another person to the program prior to them moving into the unit. The Department must also be notified in writing of the birth, adoption or court-awarded custody of a child. The Department will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit. If the PHA has given approval, a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of 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.
  
  **TDHCA Policy**
  
  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify the PHA when the family is absent from the unit.
  
  **TDHCA Policy**
  
  See Chapter 3, Section I.L for Absent Family Members Policy.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].

- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
• Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

• Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.

• Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to drug-related and violent criminal activity.

• An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

• A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA 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

OVERVIEW

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

DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

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

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

• The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.

• The subsidy standards must be consistent with space requirements under the housing quality standards.

• The subsidy standards must be applied consistently for all families of like size and composition.

• A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.

• A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

• Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
• Unless a live in aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

**TDHCA Policy**

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

Persons of the opposite sex (other than spouses, and children under age 5) will be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

The Department 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 (Minimum)</th>
<th>Persons in Household (Maximum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Bedroom</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>4 Bedrooms</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>5 Bedrooms</td>
<td>6</td>
<td>10</td>
</tr>
</tbody>
</table>

**For example:** For any other person in the household the PHA shall issue 2 persons per bedroom. Opposite sex (except the head/spouse or co-head) shall receive separate bedrooms age over the age of 5 or generations.

**EXCEPTIONS TO SUBSIDY STANDARDS**

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

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

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

**TDHCA Policy**

Any request for an exception to the subsidy standards must be made to the Department. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless
the disability and the disability-related request for accommodation is readily apparent or otherwise known. Once the request is received and reviewed for proper documentation by the Department.

The Department will notify the family of its determination within 10 business days of receiving the family’s request. If a participant family’s request is denied, the notice will inform the family of their right to request an informal hearing.

VOUCHER ISSUANCE [24 CFR §982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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

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

**TDHCA Policy**

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

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10]. If the PHA determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

**VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS**

*Voucher Term [24 CFR §982.303]*

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

**TDHCA Policy**

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval (RTA) and proposed lease within the 60-day period unless the Department grants an extension.

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

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

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.
The family must be notified in writing of the PHA’s decision to approve or deny an extension. The PHA’s decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR §982.554(c)(4)].

**TDHCA Policy**

A family may request an extension of the Voucher time period. All requests for extensions should be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the Department primarily for the following reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time that has affected the family’s ability to find a unit within the initial 60-day time period. The Department will verify the extenuating circumstances prior to the Department granting an extension;
- The family has evidence that they have made a consistent effort to locate a unit and request support services from the Department, throughout the initial 60-day period with regard to their inability to locate a unit;
- The family has turned in a RTA prior to the expiration of the 60-day time period, but the unit has not passed HQS;
- Time Period for Extensions: The Program Manager may grant one or more extensions, not to exceed a total of 60 days. The initial term plus any extensions **MAY NOT exceed 120 calendar days** for the beginning of the initial term; and/or
- Extensions for Disabled Persons: The Department **must** grant an extension of up to 150 days for persons who are disabled.

**Suspension of Voucher Term [24 CFR §982.303(c)]**

The PHA has the option to suspend or toll the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. “Suspend/ Toll” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time the PHA approves or denies the request [24 CFR §982.4]. The PHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR §982.554(c)(4)].

**TDHCA Policy**

When the Department receives a RTA and proposed lease, the term of the voucher is suspended/ tolled.

**Expiration of Voucher Term**

The PHA has the authority to grant extension of search time to specify the length of a extension and to determine the circumstances under which extensions will be granted. The PHA must approve additional search time if needed as a reasonable accommodation to make the program accessible for a person with a disability. The extension must be reasonable for the purpose of the request.

If the PHAs decision to deny the request for an extension, this is not subject to an informal review [24 CFR §982.554(c)(4)].

Such a family does not become ineligible for the program because it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

**TDHCA Policy**

If an applicant family’s voucher term or extension expires before the Department has approved a RTA, the Department will place the family back on the waiting list with a new application date without requiring the family to reapply for assistance.
Within 10 business days after the expiration of the voucher term or any extension, the Department will notify the family in writing that the voucher term has expired and that the family will be placed back on the waiting list with a new application date.
Chapter 6: INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

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

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

PART I: ANNUAL INCOME

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.

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

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 next two sections 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.

**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><strong>Live-in aides</strong></td>
</tr>
<tr>
<td><strong>Foster child or foster adult</strong></td>
</tr>
<tr>
<td><strong>Head, spouse, or Co-head</strong>&lt;br&gt;<strong>Other adult family members</strong></td>
</tr>
<tr>
<td><strong>Children under 18 years of age</strong></td>
</tr>
<tr>
<td><strong>Full-time students 18 years of age or older (not head, spouse, or Co-head)</strong></td>
</tr>
</tbody>
</table>

* Chapter 3 provides more detail

**Temporarily Absent Family Members [24 CFR §5.609(a) (1); § 982.551]**

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].

**TDHCA Policy**
Generally an individual who is or is expected to be absent from the assisted unit for 90 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 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

*Under no circumstances can the entire family be absent from the unit for more than 90 calendar days. (§982.312)

**Absent Students**

**TDHCA Policy**

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

* Full time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of Voucher size.

**Absences Due to Placement in Foster Care**

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

**TDHCA Policy**

If a child has been placed in foster care, the Department 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. ‘Permanently removed’ is defined as more than 365 days.

**Absent Head, Spouse, or Co-head**

**TDHCA 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].

**TDHCA Policy**

The Department will request verification from a responsible medical professional and will use this determination in making a decision. 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 qualify as an elderly person or a person with disabilities.

Absent Due to Incarceration

**TDHCA Policy**

If the sole member is incarcerated for more than 45 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 45 consecutive days.

The Department will determine if the reason for incarceration is for drug-related or violent criminal activity and, if so, will terminate assistance to the family (see Chapter 12: Denial and Termination of Assistance.)

Joint Custody of Dependents

**TDHCA 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 51 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents.

If there is a dispute about which family should claim them, the Department 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

**TDHCA Policy**

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

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker’s role is temporary. In such cases the Department 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.

**ANTICIPATING ANNUAL INCOME**

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

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

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

**TDHCA Policy**

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

**Known Changes in Income**

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

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases, the Department 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 the Department’s policy in Chapter 11 does not require interim reexaminations for other types of changes.

**Seasonal Changes in Income**

If the Department is verifying school, seasonal or contractual employment, annual income must be calculated by applying the income amount by the appropriate months employed. Families should pay their portion of rent based on the anticipated income for 12 months.

Therefore, their portion of rent will be a little less during the working months than it would normally be, but they must prepare for the same portion of rent when their seasonal income stops. This is especially geared towards school employees who work 9 or 10 months a year, but could also be used for other seasonal employment.

**Enter detailed notes in HAPPY Housing_pro under the “New Note” screen.**

**Example1:** A family reports that as a school bus driver the individual is employed 9 months thru out the year. Their salary monthly is $1,300 per month. The Department would calculate annual income as follows: ($1,300 × 9 monthly) = $11,700.
Using Enterprise Income Verification (EIV) to Project Income

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

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

TDHCA Policy

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

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

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

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

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

- The Department will request written third-party verification from the discrepant income source in accordance with 24 CFR §5.236(b)(3)(i).
- When the Department cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the Department will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- The Department will analyze all EIV, third party, and family-provided data and attempt to resolve the income discrepancy.
- The Department will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

Use of Historical Income Data

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

ZERO INCOME INTERIMS

There is no minimum income requirement.

TDHCA Policy

Families who report zero income are required to complete a written certification every 90 calendar days that will be verified with all federal, state and local agencies and other sources, as appropriate, including credit checks, to verify income sources, and an interim will be submitted to MTCS.
Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, and other subsistence of expenses in writing. The PHA will require a printout of utility bills for the past 12 months to be submitted at interim evaluations for participants claiming zero income.

The average for the last three months of utility bill payments over the amount of the family’s Utility Reimbursement Payment, will be averaged, annualized and the results analyzed to determine the possibility of un-reported or under-reported income and shall be counted as income.

When the amounts indicate that the family has received monies from outside sources, or that an outside source has paid the family’s bills on their behalf, the PHA will call the family into an interview to discuss how the family has made the payments.

When it is discovered that an outside source has provided money to the family, or has paid the bills on the family’s behalf, the PHA will send third party verification to the providing party to determine whether the income is sporadic or recurring in order to determine whether the amount is to be included in the family’s annual income.

The PHA will also verify no other income has been received via third party verification at the 90 calendar day interim examinations being sent to such agencies as the unemployment department, welfare, and child support, and will perform credit checks to identify reoccurring payments.

If the family’s expenses exceed their known income, the PHA will make inquiry of the head of household as to the nature of the family’s resources and terminate the family for fraud, or offer a repayment agreement when documented evidence indicates the family has unreported income, which includes receiving funds from other parties or individuals that has not been reported. Failure to enter into a repayment agreement and pay the required 25% within the established guidelines shall result in the termination of the subsidy.

**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)].

**TDHCA Policy**

For persons who regularly receive bonuses or commissions, the Department will verify and then average amounts received for the prior three months preceding admission or reexamination. The family may provide, and the Department will consider, a credible justification for not using this history to anticipate future bonuses or commissions.

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

**Types of Earned Income Not Counted in Annual Income**

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

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 repairperson would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed. Such income is not counted.
**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 Person Permanently Confined to Nursing Home [24 CFR §982.54(d) (10)]**

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the PHA will calculate the income by using the following methodology and use the income figure which would result in a lower payment by the family:

- Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member after 180 days or when doctor certification of length of absence is received, whichever comes first.

**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. §1087uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. §12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. §2931)

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

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

**TDHCA Policy**

The Department 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].

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

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

End of participation in a training program must be reported in accordance with the Department'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.

**TDHCA 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.

**EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR §5.617 and 24 CFR §960.255]**

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 straight period of time. The Department will administer the requirement in accordance with 24 CFR §5.617 and which can be viewed in full in PIH Notice 2016-05, Attachment E.

**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.”

TDHCA Policy

The Department 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.

TDHCA Policy

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

Second 12-Month Exclusion and Phase-In.

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

Lifetime Limitation.

The EID has a consecutive 24 month maximum. The 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.

TDHCA Policy

During the 24-month eligibility period, the Department 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).

BUSINESS INCOME [24 CFR §5.609(b)(2)]

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

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

**TDHCA Policy**

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

**Business Expansion**

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

**TDHCA Policy**

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

**Capital Indebtedness**

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

**TDHCA Policy**

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

**Negative Business Income**

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

**Withdrawal of Cash or Assets from a Business**

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

**TDHCA Policy**

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the Department 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**

**TDHCA 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.
ASSETS [24 CFR §5.609(b)(3) and 24 CFR §5.603(b)]

Overview

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

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

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-4 provides the regulatory definition of net family assets as well as a chart from the HCV Guidebook that summarizes asset inclusions and exclusions. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

TDHCA Policy

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

Valuing Assets

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

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include 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 a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) retains those [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 family assets are equal to or less than $5,000, the annual income anticipated from assets will be verified at initial and every three years thereafter. The PHA may request documentation to confirm the family's assets or the amount of income expected to be received from those assets. The PHA will accept the families personal declaration as a self-certification at the time of the annual renewal. If the family has assets in excess of $5000, the PHA must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

TDHCA Policy

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

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

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

Minimum Threshold

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

TDHCA Policy

The Department 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.

**TDHCA 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

**TDHCA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

The Department may verify the value of the assets disposed of if other information available to the Department 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.

**TDHCA Policy**

In determining the value of a checking account, the Department will use the average monthly balance for the last six months.

In determining the value of a savings account, the Department will use the current balance.

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

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

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

**TDHCA Policy**
In determining the market value of an investment account, the Department will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Department 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.

**TDHCA Policy**

In the case of capital investments owned jointly with others not living in a family’s unit, a prorated share of the property’s cash value will be counted as an asset unless the Department determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

**Trusts**

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

**Revocable Trusts**

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.
Non-revocable Trusts

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

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

TDHCA Policy

In determining the value of personal property held as an investment, the Department will use the family’s estimate of the value. However, the Department also may obtain an appraisal if appropriate to confirm the value of the asset. 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)].

TDHCA Policy

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, 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.
**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 §6.609(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 because 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 [24 CFR §5.609(b)(4)].

**TDHCA Policy**

When a delayed-start payment is received, the family must report the change within 10 business days to the Department LO representative. The Department will then assess the family situation and determines whether to adjust the family share and Department subsidy. If the determination requires the family to make retroactive payments for the period the payment was intended to cover, the family may (1) pay in full any amount due or (2) request to enter into a repayment agreement with the Department.

See Chapter 11 for information about a family’s obligation to report lump-sum receipts between annual reexaminations.

See Chapter 16 for policies related to repayment agreements.

**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)]

**TDHCA Policy**

The Department 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(g)) [24 CFR §5.609(c)(17)]. **Note:** EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR §5.609(b)(4)].
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.)

WELFARE ASSISTANCE

Overview

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

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

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR §5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

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

Imputed Income

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

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

Offsets

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

PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR §5.609(b)(7)]
Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

**Alimony and Child Support**

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

**TDHCA Policy**

The Department will count court-awarded amounts for alimony and child support unless the Department verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

**Regular Contributions or Gifts**

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR §5.609(b) (7)]. Contribution or gifts received every two months or more frequently will be considered a “regular” contribution. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR §5.609(c) (9)].

**TDHCA Policy**

Examples of regular contributions include: (1) regular payment of a family’s bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) “in-kind” contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the Department. For contributions that may vary from month to month (e.g., utility payments), the Department will include an average amount based upon past history.

**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)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR §5.609(c)(6)]
- 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. Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. §1087uu)
  j. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f))
  k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *Re Agent-orange product liability litigation*, M.D.L. No. 381 (E.D.N.Y.)
  m. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. §9858q)
  n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j))
  o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
  p. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. §12637(d))
  q. Any allowance paid under the provisions of 38 U.S.C. §1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. §1805)
r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime
victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the
Victims of Crime Act because of the commission of a crime against the applicant under the Victims of
Crime Act (42 U.S.C. §10602)
s. Allowances, earnings and payments to individuals participating in programs under the Workforce

PART II: ADJUSTED INCOME

INTRODUCTION

Overview

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

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the
following amounts from annual income:

(1) $480 for each dependent;

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

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

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

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

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

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

Anticipating Expenses

TDHCA Policy

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

If a family has an accumulated debt for medical or disability assistance expenses, the Department will
include as an eligible expense the portion of the debt that the family expects to pay during the period for
which the income determination is being made. However, amounts previously deducted will not be allowed
even if the amounts were not paid as expected in a preceding period. The Department may require the
family to provide documentation of payments made in the preceding year.

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)].

**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].

**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 24 CFR §5.603(b)*

HUD regulations define *medical expenses* to include medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

**TDHCA Policy**

Those necessary 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. Medical expenses, in excess of three percent (3%) of annual income, are deductible from income by elderly and disabled households only.

**Families That Qualify for Both Medical and Disability Assistance Expenses**

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

**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 [24 CFR §5.603(b)].*

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.

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.

**TDHCA Policy**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the Department will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Department determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

**Eligible Disability Expenses**

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

**Eligible Auxiliary Apparatus**

**TDHCA 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.

**TDHCA Policy**

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

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

If the care attendant also provides other services to the family, the Department 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 [24 CFR §5.603(b)]

No disability assistance expenses may be deducted for payments to a member of an assisted family. 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.

TDHCA Policy

The Department determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Department will request that the family collect information from organizations that provide services and support to persons with disabilities. Once the family collects and submits the information, the Department 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

TDHCA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Department will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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, childcare expenses for foster children that are living in the assisted family’s household are included when determining the family’s childcare expenses [HCV GB, p. 5-29].

Determining Who Is Enabled to Pursue an Eligible Activity

TDHCA 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 childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the Department 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

TDHCA Policy
If the childcare 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 childcare expense being allowed by the Department.

Furthering Education

TDHCA 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 childcare claimed.

Being Gainfully Employed

TDHCA Policy
If the childcare 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 childcare 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 childcare — although the care must still be necessary and reasonable. However, when childcare 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, childcare 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, childcare expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of childcare. 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].

TDHCA Policy
When the childcare expense being claimed is to enable a family member to work, only one family member’s income will be considered for a given period of time. When more than one family member works during a given period, the Department generally will limit allowable childcare 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 Childcare Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Child Care Activities

TDHCA 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 childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family’s unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the Department will prorate the costs and allow only that portion of the expenses that is attributable to childcare 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 childcare 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 childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

TDHCA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare 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 childcare costs, the Department will use the schedule of childcare costs from the local welfare agency. Families may present, and the Department will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR §5.628]

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

- 30 percent of the family’s monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family’s monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA
The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

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

*K* Welfare Rent [24 CFR §6.28]*

**TDHCA Policy**

Welfare rent does not apply.

*M* Minimum Rent [24 CFR § 5.630]*

**TDHCA Policy**

The minimum rent for all Department localities is $25.00

*F* Family Share [24 CFR §982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA’s applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family’s monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family’s voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

*P* PHA Subsidy [24 CFR §982.505(b)]

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

*U* Utility Reimbursement Payment [24 CFR §§960.253, 982.514(b)]

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider. PHAs may make reimbursement payments monthly, retroactively or prospectively. A PHA that adopts any of these provisions, and chooses to make reimbursement payments retroactively, must permit a family to request a hardship exemption, in accordance with 24 CFR 5.630(b)(2). If a family receives a hardship exemption, then the PHA may either reimburse the family on a monthly basis or it may make prospective payments to the family, on a quarterly basis.

**TDHCA Policy**

The Department elects to make utility reimbursements to the family on a monthly basis.

**FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR §5.630]**

*Overview*

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family’s TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family’s calculated TTP.
HUD-Defined Financial Hardship

Financial hardship includes the following situations:

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

   **TDHCA 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.

   **TDHCA 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.

   **TDHCA Policy**
   In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member’s income).

5. The family has experienced other circumstances determined by the PHA.

   **TDHCA Policy**
   The Department has not established any additional hardship criteria but will consider specific hardship situations on a case by case basis.

**Implementation of Hardship Exemption**

**Determination of Hardship**

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

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.
Example: Impact of Minimum Rent Exemption

Assume the PHA has established a minimum rent of $35.

<table>
<thead>
<tr>
<th>Family Share – No Hardship</th>
<th>Family Share – With Hardship</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>$15</td>
<td>$15</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>$35</td>
<td>$35</td>
</tr>
<tr>
<td>Minimum rent</td>
<td>Minimum rent</td>
</tr>
</tbody>
</table>

Minimum rent applies.

TTP = $35

Hardship exemption granted.

TTP = $15

**TDHCA Policy**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption form to the Department prior to the rent becoming delinquent and before the lease is terminated by the Department.

The Department will make the determination of hardship within 30 calendar days.

*No Financial Hardship*

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

**TDHCA Policy**

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

*Temporary Hardship*

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

**TDHCA Policy**

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

If a resident requests a hardship exemption (prior to the rent being delinquent) under this section, and the Department reasonably determines the hardship to be of a temporary nature, exemption shall not be granted during a ninety day period beginning upon the making of the request for the exemption.

A resident may not be evicted during the ninety-day period for non-payment of rent. In such a case, if the

Page 94 of 259
resident thereafter demonstrates that the financial hardship is of a long-term basis, the Department shall retroactively exempt the resident from the applicability of the minimum rent requirement for such ninety-day period. This paragraph does not prohibit the HA from taking eviction action for other violations of the lease.)

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family’s request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

TDHCA 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.

APPLYING PAYMENT STANDARDS [24 CFR §982.505]

Overview

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

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

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

If the PHA has established an exception payment standard for a designated part of an FMR area and a family’s unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family’s TTP or (2) the gross rent for the family’s unit minus the TTP.

If during the term of the HAP contract for a family’s unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

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

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family’s second regular reexamination following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, the PHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

Step 2: The PHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases

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

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family’s first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family within the basic range.

**APPLYING UTILITY ALLOWANCES [24 CFR §982.517]**

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using PHA subsidy standards. See Chapter 5 for information on the PHA’s subsidy standards.

Effective July 01, 2014, PHAs must limit the utility allowance payment for tenant-based vouchers to the family unit size for which the voucher is issued, irrespective of the size of the unit rented by the family, with an exemption for families with a person with disabilities.

Therefore, the utility allowance for a family is the lower of the utility allowance amount for the family unit size or the utility allowance amount for the size of the unit rented by the family.
At the request of a family with a person with disabilities, the PHA must approve a utility allowance higher than the applicable amount if such a higher utility allowance is needed as a reasonable accommodation.

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

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

**Utility Allowance Revisions**

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR §982.517(d)(2)].

**TDHCA Policy**

The Department must review its utility allowance schedule annually, and must revise its allowances at other times when there has been a change of 10 percent or more in the utility rates or fuel costs since the last revision of the schedule.

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 put into effect.

The PHA may implement revised UA schedules on a specified date and time for all households provided the household has been given at least sixty days notice of the change.

**PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR §5.520]**

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.
EXHIBIT 6-I: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

(3) Which are not specifically excluded in paragraph (c) of this section.

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

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b) (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular

1 Text of 45 CFR 260.31 follows.
contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

| HHS DEFINITION OF "ASSISTANCE"
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES</td>
</tr>
<tr>
<td>260.31 What does the term “assistance” mean?</td>
</tr>
<tr>
<td>(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).</td>
</tr>
<tr>
<td>(2) It includes such benefits even when they are:</td>
</tr>
<tr>
<td>(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and</td>
</tr>
<tr>
<td>(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).</td>
</tr>
<tr>
<td>(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.</td>
</tr>
<tr>
<td>(b) [The definition of “assistance”] excludes: (1) Non-recurrent, short-term benefits that:</td>
</tr>
<tr>
<td>(i) Are designed to deal with a specific crisis or episode of need;</td>
</tr>
<tr>
<td>(ii) Are not intended to meet recurrent or ongoing needs; and</td>
</tr>
<tr>
<td>(iii) Will not extend beyond four months.</td>
</tr>
<tr>
<td>(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);</td>
</tr>
<tr>
<td>(3) Supportive services such as childcare and transportation provided to families who are employed;</td>
</tr>
<tr>
<td>(4) Refundable earned income tax credits;</td>
</tr>
<tr>
<td>(5) Contributions to, and distributions from, Individual Development Accounts;</td>
</tr>
<tr>
<td>(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</td>
</tr>
<tr>
<td>(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.</td>
</tr>
</tbody>
</table>
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) 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, childcare, etc.) and which are made solely to allow participation in a specific program;

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

### Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

The following updated list of federally mandated exclusions supersedes the notice published in the Federal Register on December 14, 2012. The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion in either any Federal program or in specific Federal programs (exclusions (viii), (xiii), (xxi), and (xxii) have provisions that apply only to specific HUD programs):

1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
2. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
3. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
4. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
5. Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
6. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, section 6);
7. The first $2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and 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). This exclusion does not include proceeds of gaming operations regulated by the Commission;
8. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327) (as amended);
9. Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);
10. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101–201) or any other fund established pursuant to the settlement in In Re Agent Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
12. 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);
13. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of
1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
(xiv) 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);
(xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
(xvii) 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(c));
(xviii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
(xix) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
(xx) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
(xxi) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
(xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
(xxiii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291);
(xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013–30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and

(xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).
EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received 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.

(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.
Chapter 7: VERIFICATION


INTRODUCTION

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

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

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

PART I: GENERAL VERIFICATION REQUIREMENTS

FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 and 982.551, 24 CFR 5.230]

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

Consent Forms

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

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

7-I-B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD’s Verification Hierarchy

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:
• Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
• Up-front Income Verification (UIV) using a non-HUD system.
• Written Third-party Verification Form (may be provided by applicant or participant)
• Oral Third-party Verification
• 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

TDHCA Policy
Photocopies are an acceptable means of verification as long as they appear to be authentic and there is not sign of tampering with the information. If the Department has any reason to believe the documents are not authentic, the Department will request all original documents. Any documents used for verification generally must be dated within 60 calendar days of the date they are provided to the Department. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

A family self-certifications must be made in a format acceptable to the Department.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, will be verified as the policies set forth in the plan. The families record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

TDHCA Policy
PHA will document verification attempts, information obtained, and decisions reached during the verification process. This information will be documented on a telephone verification form.

UP-FRONT INCOME VERIFICATION (UIV) EIV SYSTEM

Up-front Income Verification refers to the PHAs use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

The PHA must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

Upfront Income Verification using HUD’s Enterprise Income Verification (EIV) System (Mandatory)
HUD’s EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participants’ families. HUD requires the PHA to use EIV system in its entirety. The following policies apply to the use of HUD’s EIV system.

**EIV Income Reports**
The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

**TDHCA Policy**
PHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process. Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used also to meet regulatory requirements for third party verification, as described above.

**EIV Discrepancy Reports**
The EIV discrepancy report is a tool for identifying who may have concealed or under reported income. Data in the discrepancy report represents income for past reporting periods and may be between 6 months and 30 months at the time reports are generated.

Families who have not concealed or under-reported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members. This income may be identified through use of the EIV “Income Discrepancy Report” or by review of the discrepancy tab for the individual family.

**TDHCA Policy**
The PHA will generate the Income Discrepancy Report at least once every 3 months. When the PHA determines that a particular family appearing on the Income Discrepancy Report has not disclosed or has under-reported income, the family will be mailed a Failure to Report Income letter. To avoid a possible repayment agreement, a subsequent interim or reexamination must be completed. The PHA will review the EIV discrepancy during processing of annual and interim reexamination. When it appears that a family may have under-reported income, the PHA will request written third-party verification of the income in question.

**EIV Identify 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.

PHAs are required to use EIV’s identity Verification Report on a monthly basis to improve the availability of income information will be displayed [Notice PIH 2010-3].

**TDHCA Policy**
The PHA will identify participants whose identity verification has failed by reviewing the EIV Identity Verification Report monthly. The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines the discrepancy exists due to PHA errors such as spelling, or incorrect birth dates, the error will be corrected promptly.

**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 standard 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

**TDHCA Policy**

Acceptable tenant-provided documents include, but are not limited to: paycheck stubs, company letterhead from employer, SSA benefits verification, bank statements, child-support award letters, welfare benefit letters, unemployment and monetary notices. Verification of earned income must be within 60 days of the request. The PHA may reject documentation provided by the family if the document is a copy, appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines the third-party document provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

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 of $3,000 annual or more and there is no UIV or tenant-provided documentation to support the income discrepancy.

**TDHCA Policy**

The PHA will send third-party verification forms directly to the third-party by mail, fax, or email. Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA. HUD requires the PHA to make at least two attempts to obtain third-party verification before using another form of verification [VG, p. 15].

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 a request for written third-party verification forms have not been returned within a reasonable time. *e.g.*, 10 business days.

**TDHCA Policy**

In collecting third-party oral verification, PHA will record in the family’s file the name, title of the person contacted, date, time of the conversation, for each attempt, phone number used, email with read-receipt confirmation, and the facts provided.

The department will initiate a third-party oral verification if verification is not received on the 11th business day.

The Department will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file.

When any source responds verbally to the initial written request for verification the Department 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 Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA’s interim reexamination policy.

When Third-Party Verification is Not Required [Notice PH 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 verification of income, assets, or expenses when these items would have a minimal impact on the family’s total tenant payment.

TDHCA Policy

If the family cannot provide original documents, and it is not cost effective for the PHA to receive, the PHA will accept a self-certification as the only means of verification. The cost 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 and Expenses

The PHA will accept a self-certification from a family if assets disposed of for less than fair market value [HCV GB, p. 5-28].

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

TDHCA Policy

The Department will use a self-certification in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $5000 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines that a third party’s privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

TDHCA Policy

The Department also will determine that third-party verification is necessary when there is a service charge for verifying an asset or expense and the family has original documents that provide the pertinent information.

If the family cannot provide original documents, the Department will accept a self-certification from the tenant as the only means of verification. The cost of verification will not be passed on to the family.

REVIEW OF DOCUMENTS
Using Review of Documents as Verification

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

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

TDHCA Policy

The tenant file will include documentation of records reviewed by the Department’s Regional Coordinator (RC) which support the family’s statements.

If possible, original copies (not photocopies) of supporting documents should be reviewed, though the Department RC should photocopy the document (unless prohibited by law) and place it in the tenant’s file. The Department RC reviewing the document(s) should prepare a summary of the information, sign and date.

The summary should include the rationale for using document review as verification and again, if possible, follow up with the third party to obtain written verification later.

Self-Certification

Self-certification, or “tenant declaration”, is used as a last resort when the PHA is unable to obtain third-party verification.

TDHCA Policy

The Department may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Department and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a Department representative or notary public.
Part II: Verifying FAMILY INFORMATION

**VERIFICATION OF LEGAL IDENTITY**

**TDHCA Policy**

The PHA will require families to furnish verification of legal identity for each household.

<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 (through the courts)</td>
</tr>
<tr>
<td>U.S. military discharge (DD 214)</td>
<td>Health and Human Services ID (foster children; adopted children)</td>
</tr>
<tr>
<td>U.S. passport</td>
<td>School Records</td>
</tr>
<tr>
<td>Employer identification card</td>
<td>Delegation of Parental Authority</td>
</tr>
<tr>
<td></td>
<td>I-94School records</td>
</tr>
</tbody>
</table>

The Department will require families to furnish verification of legal identity for each household member. A birth certificate is the preferred document for verification of legal identity. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required. Legal identity will be verified on an as needed basis.

**SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2010-3]**

The family must provide documentation of a valid social security number (SSN) for each family member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants as of January 31, 2010, who have either previously disclosed social security number that HUD has determined to be valid or are 62 years of age and received covered housing assistance before January 31, 2010.

If a family member reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The PHA will give the family member 90 calendar days from the date of the family member’s self-certification.

If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

**TDHCA Policy**

The PHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office or verification of social security number from the SSA. For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 90-day period, the PHA will grant an additional 60 calendar days to provide documentation. If any family member obtains an SSN after admission to the program, the new SSN must be disclosed within 30 days. The social security numbers of household members, such as live-in aids, must be verified For the purpose of conducting criminal background checks.
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.

TDHCA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Department will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age need only be verified only once during continuously assisted occupancy.

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.

TDHCA Policy

Family relationships are verified only to the extent necessary to determine a family’s eligibility and level of assistance. Verification of guardianship is a court-ordered assignment, school records, verification from social services agency/ Supplemental Nutrition Assistance Program (SNAP) showing family members. Self-certification of temporary guardianship or appointment from parent.

Marriage

TDHCA Policy

Certification by the head of household is normally sufficient verification. If the Department has reasonable doubts about a marital relationship, the Department will require the family to document the marriage.

A marriage certificate may be required to verify the validity of the marriage if the Department believes or receives information indicating that an individual’s declaration may not be accurate.

If a marriage certificate in not available, the following information is acceptable:

- Driver’s license that displays the same address and last names;
- Federal tax forms that indicate that the family filed taxes as a married couple during the last tax-reporting period;
- Other acceptable forms of documentation of marriage would include any document that has been issued by a federal state, city or county government and indicates that the individuals are living as a married couple. Couples that are considered married under common law can provide the same information as listed above to document that they are living together as a married couple. 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, assigning each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

TDHCA Policy
Certification by the head of household is normally sufficient verification. If the Department has reasonable doubts about a separation or divorce, the Department may require at least one of the verifications listed below:

- 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.
- A notarized statement from current landlord (not family) verifying that the current landlord knows that the applicant and spouse have not lived together for the last six (6) months or more;
- Income tax statements from both husband and wife indicating both filed income taxes separately the last year and that they filed from different addresses;
- Written statement from lawyer that applicant has filed suit for divorce because of physical abuse;
- Written statement from an abuse shelter, law enforcement agencies, and/or social services agencies that applicant needs housing due to physical abuse; or
- Food stamp verification, if no other documentation is available.
- If no court document is available, documentation from a community-based agency will be accepted.

**Absence of Adult Member**

**TDHCA 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.

- Husband or wife institutes divorce action
- Husband or wife institutes legal separation
- Order of protection/ restraining order obtained by one family member against another
- Documentation of another address at which the person resides (e.g., a lease/ utility bill)
- Certification of the spouse no longer living in the unit or contributing to the family

**Foster Children and Foster Adults**

**TDHCA Policy**

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**VERIFICATION OF STUDENT STATUS**

**TDHCA Policy**
The Department 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 a childcare deduction to enable a family member to further his or her education
- The family includes a student enrolled in an institution of higher education
- The family claims income exclusion because the student is receiving earned income and only the first $480 is included as income.

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.

**TDHCA Policy**

In accordance with the verification hierarchy described in Section 6-1.B, the PHA 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.

If the PHA cannot verify at least one of these exemption criteria, PHA 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, PHA will then proceed to verify either the student’s parents’ income eligibility or the student’s independence from his/her parents (see below).

**Independent Student**

**TDHCA Policy**

PHA 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 or verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education’s definition of *independent student* (see Section 3-II.E).

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent.
Requesting and obtaining written certification directly from the student’s parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

**DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. See Chapter 2, Part II, for the policies that relate to persons with disabilities.

*Family Members Receiving SSA Disability Benefits*

The PHA will attempt to obtain information about disability benefits through the HUD EIV System when it is available, or HUD’s Tenant Assessment Subsystem (TASS). If the HUD EIV System or TASS is not available, the PHA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

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, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

*Family Members Not Receiving SSA Disability Benefits*

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability in 24 CFR 5.403.

**TDHCA 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.

**CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

*Overview*

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for “mixed families” containing both eligible and ineligible persons.

A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g) (5)]

*U.S. Citizens and Nationals*

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.
The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

**TDHCA Policy**

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the Department receives information indicating that an individual’s declaration may not be accurate.

**Eligible Immigrants: Documents Required and PHA Verification [HCV GB, pp. 5-3 and 5-7]**

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.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. Of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The PHA will follow all USCIS protocols for verification of eligible immigration status.

**VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant.

**TDHCA Policy**

The Department offers Project Access preferences for some vouchers as reflected in the Texas Administrative Code. Certain project-based VASH vouchers have preferences for the elderly or disabled as reflected in the project’s HAP contract. Disaster recovery impacted households are eligible for a preference for all other vouchers. Verification occurs prior to issuance of vouchers.

**PART III: Verifying Income AND ASSETS**

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

**EARNED INCOME**

**Tips**

**TDHCA 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 provide a signed estimate of tips received for the prior year and tips anticipated to be received in the coming year. Tips will also be verified via the employer identification form sent directly from the Department to the employer.

**Business and Self-Employment Income**

**TDHCA Policy**
Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

- All schedules completed for filing federal and local taxes in the preceding year.

- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination, the PHA may request documents that support submitted financial statements such as manifests, appointment books, cashbooks, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

TDHCA Policy
To verify the SS/SSI benefits of applicants, the Department will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the Department will attempt to use third party verification to obtain current SSA benefits. Verification must be within 60 days.

If third party verification is not available the Department 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 Department will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to the Department.

SPOUSAL SUPPORT OR CHILD SUPPORT

TDHCA Policy
The way the Department will seek verification for spousal support and child support differs depending on whether the family declares that it receives regular payments. The Department requests for the family to certify whether they are receiving or not receiving child support at the time of family admission or renewal.

If the family declares that it receives regular payments, verification will be sought in the following order.

- If payments are made through a state or local entity, the Department will request a record of payments through the Office of the Attorney General.

- 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.

ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

TDHCA Policy

The Department will verify the value of assets disposed of only if:

• The Department does not already have a reasonable estimation of its value from previously collected information, or
• The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, recertification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

NET INCOME FROM RENTAL PROPERTY

TDHCA Policy

The family must provide:

• A current executed lease for the property that shows the rental amount or certification from the current tenant
• A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the Department 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.

**RETIREMENT ACCOUNTS**

**TDHCA Policy**

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

- **Before** retirement, the Department will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- **Upon** retirement, the Department will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- **After** retirement, the Department 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.

**INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family’s 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child’s age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

**TDHCA Policy**

The Department will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the Department will report the amount to be excluded as indicated on documents provided by the family.

**7-III.I. ZERO ANNUAL INCOME STATUS**

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

**TDHCA Policy**

If the family has reported zero income, the Department will have the family sign a verification form to verify that no income is being provided. In addition, the Department will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income. Families whose TTP is at or below the minimum rent will be required to complete a family expense summary. Also, the PHA will verify UIV sources.

*Families will be required to report any changes in their income status within thirty (30) calendar days of the occurrence of employment and/or if any other type of income is received.*
PART IV: VERIFYING MANDATORY DEDUCTIONS

DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction
See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction
See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA will verify that the head, spouse, or Co-head is 62 years of age or older or a person with disabilities.

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

TDHCA Policy
The Department will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case, the Department will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Department will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the PHA 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. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA’s policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

TDHCA 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

TDHCA Policy

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

DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Attendant Care Expense

TDHCA Policy

The Department 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

Amount of Auxiliary Apparatus Expense

TDHCA 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, the PHA must verify that:
• The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
• The expense permits a family member, or members, to work (as described in 6-II.E.).
• The expense is not reimbursed from another source (as described in 6-II.E.).

**Family Member is a Person with Disabilities**
To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

**Family Member(s) Permitted to Work**
The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

**TDHCA Policy**
The Department 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.

**TDHCA 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.

**CHILD CARE EXPENSES**
Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:
• The child is eligible for care.
• The costs claimed are not reimbursed.
• The costs enable a family member to pursue an eligible activity.
• The costs are for an allowable type of childcare.
• The costs are reasonable if seeking employment or furthering education.

**Eligible Child**

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

**Unreimbursed Expense**

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

**TDHCA Policy**

The childcare provider will be asked to certify that, to the best of the provider's knowledge, the childcare expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

**Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

**TDHCA Policy**

*Information to be Gathered:* The Department will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

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

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

*Furthering Education:* The Department will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered.

*Gainful Employment:* The Department will seek verification from the employer of the work schedule of the person who is permitted to work by the childcare. 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.

TDHCA Policy

The Department will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The Department will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The Department will verify that the childcare 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 childcare costs can be deducted.

TDHCA Policy

The actual costs the family incurs will be compared with the Department’s established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. To establish the reasonableness of childcare costs, the Department will use the schedule of childcare costs from the local welfare agency.

If the family presents a justification for costs that exceed typical costs in the area, the Department will request additional documentation, as required, to support a determination that the higher cost is appropriate.
The New HUD Regulation: 24 CFR 5.233. Effective January 31, 2010, all PHAs are required to use the EIV system in its entirety. This means that PHAs must use all features of the EIV system to:

a. Verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR §5.236, and HUD administrative guidance; and

b. Reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

All PHAs are required to review the EIV Income Report of each family before or during mandatory annual and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. This UIV technique in many instances will reduce the need to mail or fax third party verification request forms to an income source. EIV also provides various reports to assist PHAs with the following:

a. Identifying tenants whose reported personal identifiers do not match the SSA database;

b. Identifying tenants who need to disclose a SSN;

c. Identifying tenants whose alternate identification number (Alt ID) needs to be replaced with a SSN;

d. Identifying tenants who may not have reported complete and accurate income information;

e. Identifying tenants who have started a new job;

f. Identifying tenants who may be receiving duplicate rental assistance;

g. Identifying tenants who are deceased and possibly continuing to receive rental assistance;

h. Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.

Verification Hierarchy:  
PHAs are required to access the EIV system and obtain an Income Report for each household. The PHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, the PHA should attempt the next lower level verification technique, as noted in the below chart.

Level Verification Technique Ranking:

6 Upfront Income Verification(UIV)
Using HUD’s Enterprise Income Verification (EIV) system (not available for income verifications of applicants) **Highest** (Mandatory)

**5 Upfront Income Verification (UIV)**
Using non-HUD system **Highest** (Optional)

**4 Written third Party Verification High**
(Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV reported employment and income information and is unable to provide acceptable documentation to support dispute)

**3 Written Third Party Verification Form**
Medium-Low(Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)

**2 Oral Third Party Verification Low**
(Mandatory if written third party verification is not available) Must document file narrative when this verification system is used.

**1 Tenant Declaration Low**
(Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

**Verification Technique Definitions Third Party Verification Techniques Upfront Income Verification (UIV) (Level 6/5):** The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

**Written Third Party Verification (Level 4):** An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the Department’s position that such tenant-provided documents are written third party verification since these documents originated from a third party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.

The PHA is required to obtain between two - four current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay-stubs are not available, the PHA

**EXHIBIT 7-I: HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14) cont.**
should project income based on the information from a traditional written third party verification form or the best available information.
Note: Documents older than 60 days (from the PHA interview/determination or request date) is acceptable for confirming effective dates of income.

Written Third Party Verification Form (Level 3): Also, known as traditional third party verification. A standardized form to collect information from a third party source. The third party completes the form by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email.

It is the Department’s position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information.

The Department requires PHAs to rely on documents that originate from a third party source’s computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family’s income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

Oral Third Party Verification (Level 2): Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information. This verification method is commonly used in the event that the independent source does not respond to the PHA’s faxed, mailed, or e-mailed request for information in a reasonable time-frame, i.e., ten (10) business days.

Non-Third Party Verification Technique Tenant Declaration (Level 1): The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third party verification was not available.

Exceptions to Third Party Verification Requirements
HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is required to document in the family file the reason(s) why third party verification was not available.

EXHIBIT 7-1: HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14) cont.
The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2), which states, “The PHA must obtain and document in the family file third party verification of the following factors, or must document in the file why third party verification was not available.”

**Third party verification requirements.** In accordance with 24 CFR §960.259(c)(1) and 24 CFR §982.516(a)(2) for the Public Housing and the HCV programs, respectively, the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.
### 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 the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

#### Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

#### All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<table>
<thead>
<tr>
<th>Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</th>
<th>Form I-94 Arrival-Departure Record with no annotation accompanied by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form I-94 Arrival-Departure Record annotated with one of the following:</td>
<td></td>
</tr>
</tbody>
</table>
  - “Admitted as a Refugee Pursuant to Section 207”
  - “Section 208” or “Asylum”
  - “Section 243(h)” or “Deportation stayed by Attorney General”
  - “Paroled Pursuant to Section 221 (d)(5) of the USCIS” | 
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90). |

<table>
<thead>
<tr>
<th>Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”</th>
<th>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</th>
</tr>
</thead>
<tbody>
<tr>
<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>
<td></td>
</tr>
</tbody>
</table>
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90). |
| Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register |
INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed to determine that the unit meets HQS. Effective 07/01/2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. PHAs will still have the option to inspect every unit annually.

HUD requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

HQS are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.
PART I: PHYSICAL STANDARDS

GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988, an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.
TDHCA Policy
The Department has not established a policy for negotiations of a restoration agreement. Any owner requesting restoration or a restoration agreement will have the request evaluated on a case by case basis.

ADDITIONAL PHA REQUIREMENTS
The PHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the PHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]
The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

TDHCA 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
TDHCA Policy
As permitted by HUD, the Department has adopted the following specific requirements that elaborate on HUD standards.

Walls
In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows
Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens are optional. If present, must be in good condition.

*Screens are optional on patio doors.

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. A keyed dead bolt locking device and door viewer will be required on any exterior door of the dwelling.

All interior doors must have no holes, have all trim intact, and be operable without the use of a key.

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

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
All floors should have some type of base shoe, trim, or sealing. Vinyl base shoe is permitted. Base is a narrow molding often of quarter round joining the bottom of a baseboard and the floor.

**Sinks**

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.
All sinks must have functioning stoppers.

**Security**

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

**Additional PHA Requirements:**

All appliances provided by the owner must be kept in safe and working condition.
All plumbing fixtures must be free from drips and leaks.
All holes in walls are to be patched with the exception of minor nail holes.
Doorstops are required on all doors subject to damaging walls when opened.
If cabinets are designed to have drawers and doors, all must be operational.
All closets and doors designed with knobs should have all knobs present and in working condition.
All sliding patio doors must have proper rollers so that they are in easy working condition.
All severely chipped or rusted sinks and bathtubs must be patched, repaired, or replaced.
All holes in the yard area, which could be a tripping hazard, must be corrected.
The presence and location of smoke detectors in all HCV units must be in compliance with HUD's regulations.
There shall be no missing circuit breakers or openings in the circuit panel. The circuit panel (breaker box) shall be a dead front with no openings.
Units must be clearly identified with house or apartment numbers.
Light fixtures that require a cover/ globe must be installed, unless it is designed not to have support.
Manufactured home must be securely anchored by a Tie-down device.
Carpet and flooring must be clean and in sanitary condition.
LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

A re-inspection will be conducted to verify the items have been repaired. Life threatening conditions are defined as:

“Any condition that renders a dwelling unit unfit for human habitation and/or places the occupants of said dwelling unit in an immediate, dangerous, and/or health/safety situation including deficient heating and/or cooling of the unit.”

TDHCA Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural, LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors in the unit, which result in non-compliance with HUD regulations (one on each level of each habitable area) regarding the number and location of smoke detectors.

If an owner fails to correct life-threatening conditions as required by the Department, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family-caused life threatening condition as required by the Department, the Department may terminate the family’s assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the PHA 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.

An illegal unit is a unit which is not authorized by, or does not have required permits from, local authorities. Illegal units are not acceptable unit choices unless restored to code and recognized as habitable by the local code authority.

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
- Failure to maintain the unit and premises in decent and sanitary conditions that could result in potential health and/or safety concerns
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items that could 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.

**SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]**

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the PHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

**VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]**

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

**TDHCA Policy**

A unit meets HQS space standard if the dwelling unit has at least one bedroom or living/sleeping room for each two persons. A kitchen or bathroom cannot be considered a living/sleeping room. (24 CFR 982.401(f)(2)). See also Chapter 5, Part II.

**PART II: THE INSPECTION PROCESS**

**OVERVIEW [24 CFR 982.405]**
Types of Inspections

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

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

- **Annual/Biennial Inspections.** HUD requires the PHA to inspect each unit under lease at least annually or biennially, 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 all inspectors are enforcing HQS correctly and uniformly.

**Inspection of Local Operator/Representative-owned Units**

**TDHCA Policy**

When a LO owns property in which a Department HCV tenant resides or will reside, a qualified inspector not affiliated with the LO/Department must perform the required HQS inspection. An LO unit is defined as a unit that is owned by the Local Operator (or a separate agency that also employees the LO) that administers the HCV assistance to a family. If the Department utilizes a non-affiliated inspector to conduct the HQS inspection, they must communicate the results of each inspection to the family and the Department.

**Inspection Costs**

**TDHCA Policy**

In the case of inspections of LO owned units, the Department may use administrative fees to compensate the non-affiliated inspector for inspections performed. Neither the Department nor the non-affiliated inspector may charge the family or the owner of the unit any fee for the inspection [24 CFR.982.352 (b)].

**Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

**TDHCA 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 not less than 48 hours. In the case of a life-threatening emergency, the Department will give as much notice as possible, given the nature of the emergency.

Inspections may be scheduled between 7:30 a.m. and 6:30 p.m. Generally, inspections will be conducted on business days only. For Initial Inspections, the LO representative is required to complete the inspection within 15 days after receiving the Request for Tenancy Approval (RTA) from the applicant.

**Attendance at inspections by owner and family.**

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

**TDHCA Policy**
When a family occupies the unit at the time of inspection, an adult family member 18 or older, or family representative must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the Department 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.

**INITIAL HQS INSPECTION [24 CFR 982.401(a)]**

**Timing of Initial Inspections**

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

**TDHCA Policy**

The Department will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the RTA. If the unit fails the initial Housing Quality Standards inspection, the family and owner will be advised to notify the PHA once repairs are completed. Self-Certifications are not permitted for an initial inspection.

The Department may accept as satisfactory an inspection of the unit performed for a different housing program, which may include but is not limited to inspections for properties funded with housing tax credits.

**Inspection Results and Re-inspections**

**TDHCA Policy**

If any HQS violations are identified, the owner will be notified in writing of the deficiencies and be given 10 calendar days to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the Department for good cause. The Department or the LO representative will re-inspect the unit within 7 business days of the date the owner notifies the Department that the required corrections have been made.

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

Following a failed re-inspection, the family may submit a new RTA 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.

**TDHCA Policy**

The Department will not conduct the initial inspection until all utilities are connected and operational. The HAP contract will not be executed until the utilities are connected and all other HQS requirements are fulfilled.
Appliances

TDHCA Policy

If the family is responsible for supplying the stove and/or refrigerator, the Department will require the stove and refrigerator to be placed in the unit prior to the HQS inspection.

ANNUAL/ BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must be inspected within 24 months of the last full HQS inspection. The PHA reserves the right to require additional inspections of any owner or any tenant at time.

TDHCA Policy

If an adult family member 18 or older, or family representative cannot be present on the scheduled date, the family should request that the LO/ Department reschedule the inspection. The LO/ Department and family will agree on a new inspection date that generally should take place within 5 business days of the originally scheduled date. The LO/ Department may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the LO/ Department will automatically schedule a second inspection. If the family misses two scheduled inspections without the LO/ Department’s approval, the Department 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. Inspections within the biennium will represent a cross-section of areas within the jurisdiction and of inspectors.

SPECIAL INSPECTIONS [HCV GB p. 10-30]

The PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit. If the reported condition is not life-threatening (i.e., the Department would require the owner to make the repairs within no more than 30 calendar days), then the Department must inspect the unit within 15 days of when the PHA received the compliant.

TDHCA Policy

During a special inspection, the Department generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual/ biennial inspection has been scheduled or is due within 30 days of the date the special inspection is scheduled the Department may elect to conduct a full inspection.

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

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

MOVE-OUT INSPECTIONS
**TDHCA Policy**

These inspections are performed after the tenant moves out of the unit at the owner's request. The owner and/or the owner's representative will be required to attend the move-out inspection. If the tenant plans to remain in the unit and the HAP contract is going to be canceled, the inspection can be performed with the tenant in place. Move-out inspections substantiate possible damage claim/violation of family obligations. If an owner requests a move-out inspection to substantiate a damage claim/violation of family obligation, the inspection must be completed prior to the work being done that will correct the damage. The owner must request an inspection within 5 business days of the move-out. If the LO cannot schedule the inspection prior to re-rental of the unit, the LO may give the owner permission to submit a damage claim/violation of family obligation with pictures of the unit, to substantiate the damage. The Department may use this evidence to terminate the continuing assistance to the participant because of a family violation.

**INSPECTION RESULTS AND RE-INSPECTIONS FOR UNITS UNDER HAP CONTRACT**

**Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

**TDHCA Policy**

When life-threatening conditions are identified, the Department or LO 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 the Department's notice.

When failures that are not life threatening are identified, the Department will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time-frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any Department-approved extension), the owner's HAP will be abated in accordance with Department 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 Department-approved extension, if applicable) the family's assistance will be terminated in accordance with Department policy (see Chapter 12).

Extensions [24 CFR 982.404].

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

**TDHCA Policy**

Extensions will be granted in cases where the Department 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. The request must be submitted prior to the expiration date of the initial correction date.

Re-inspections

TDHCA Policy

Re-inspections may be performed by LO/ Department staff for verifying that deficiencies noted in the previous inspection has been corrected and meet HQS standards by the end of the corrective period or any Department approved extension.

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, the Department will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with Department policies. If the LO/ Department is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the Department 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.

The PHA is required to conduct a follow-up inspection if the unit does not pass HQS pursuant to the Initial Inspection. The follow-up is to determine whether all deficiencies during the initial inspection were corrected within the timeframe. Annual or special re-inspections may be verified by LO/ Department staff or remotely by providing the following conditions:

- Self-Certification/ Tenant confirmation
- Photos of the HQS deficiency
- Receipt(s) for work complete has been corrected. The regulation at 982.404(a) (3) states that the PHA “verifies” HQS repairs.

The PHA may accept an owner’s certification that required repairs were completed and then verify that action at the next on-site inspection. Further, a PHA might tie the verification process to the severity of corrections needed and/or its experience with the owner and property.

ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.2(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.

TDHCA Policy

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

The Department will inspect abated units within 7 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.
During any abatement period, the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

**HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

**TDHCA Policy**

The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies the Department before the termination date of the HAP contract, the Department may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the Department is 30 days.

**ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

**PART III: RENT REASONABLENESS [24 CFR 982.507]**

**OVERVIEW**

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit’s rent is reasonable.

**Local Operator/Representative-owned Units**

When a LO owns property in which a Department HCV tenant resides or will reside, a qualified inspector not affiliated with the LO must determine rent reasonableness in accordance with program requirements, and assist the family in negotiating the contract rent when the family requests assistance. If the Department utilizes a non-affiliated inspector to conduct the rent reasonableness, they must communicate the results of their determination to the family and the Department. An LO owned unit is defined as a unit that is owned by the Local Operator (or a separate agency that also employees the LO that administers the HCV assistance to a family.

**WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**
Owner-initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy, the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

TDHCA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner’s lease. The request must be received 60 days prior to the tenant’s renewal date. For rent increase requests after initial lease-up, the Department may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises, the Department will consider unit size and length of tenancy in the other units.

The Department will determine whether the requested increase is reasonable after a rent reasonable study has been completed by the LO and forwarded to Department headquarters for approval. In most cases the owner will be notified of the determination within 30 days.

Example of the impact of this policy:

An owner is asking $500 for a unit and 3 other units of the same size that have turned over this year are renting for $500 but 4 units that have been occupied by the same tenants for many years have rents ranging from $450 to $480. It would be reasonable for the Department to assume that the market for units becoming available now is $500.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

TDHCA Policy

In addition to the instances described above, the Department will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the Department determines that the initial rent reasonableness determination was in error or (2) the Department determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

The market areas for rent reasonableness are census tracts and/or neighborhoods within 30 miles of the target unit to the extent possible and depending on the availability of comparable units. Subject units within a defined housing market area will be compared to similar units within the same area.

HOW COMPARABILITY IS ESTABLISHED
Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age (within 30 miles of the target unit to the extent possible.)
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

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

Note: Notice PIH 2011-46 issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

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

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises. Information is gathered on unassisted rental units in the PHA’s market area, and each unit is rated, using the PHA’s rent reasonableness system. Using an automated method, the average rents are identified for units of like size and type within the same market area.

Attempts will be made to localize the unit within the same census tract or the adjoining census tract. As many defined factors of the items listed above on the unit to be assisted will be compared, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the estimated dollar value of the comparable items in comparison with the total database. The unit and the comparables shall be maintained in the file.

PHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

TDHCA Policy

The LO/ Department will collect and maintain data on market rents in the Department’s jurisdiction on an annual basis. The information will be gathered utilizing the Data Collection Form for Unassisted Rental Units provided by the Department. To gather information about unassisted units
the LO/ Department will utilize sources that include newspapers, tax appraisal districts, rental publications from supermarkets, realtors, management agents, market surveys, inquiries of owners and other available sources. The data will be maintained in the Department’s office for reference. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

**TDHCA Policy**

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The LO/ Department will compare at least two comparable units in the private unassisted market to the contract property utilizing the data collection form. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the Department 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.

The Department will notify the owner of the rent the Department can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The Department will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the Department’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 open able 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.

**EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS cont.**
Water Supply
The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint
Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance, ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access
Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood
The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition
The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors
Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If any person with a hearing impairment occupies the dwelling unit, 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.
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 [24 CFR 982.305(a)]**

This Section covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract. The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have
been budgeted. The PHA’s objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

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

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 PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]

**TENANT SCREENING**

The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA’s policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a) (2)].

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

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

The PHA’s policy on providing information to the owner must be included in the family’s briefing packet [24 CFR 982.307(b) (3)].

**TDHCA Policy**

The Department will not screen applicants for family behavior or suitability for tenancy.
The Department will not provide additional screening information to the owner.

**REQUESTING TENANCY APPROVAL [Form HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

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

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- The proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A
- W9 Form, required
- Direct Deposit Form, required
- Recorded Deed, if applicable
- Management Agreement, if applicable

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

**TDHCA Policy**

The RTA must be signed by both the family and the owner. The owner may submit the RTA on behalf of the family. A completed RTA (including the proposed dwelling lease) may be submitted in-person, by mail, fax, or by email (pdf).

The family may not submit more than one (1) RTA at a time. Once, the family submits the RTA the Department will review the RTA for completeness. If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the Department will notify the family and the owner of the deficiencies.

Missing information and/or missing documents may be accepted in-person, by mail, fax, or email (pdf). The Department will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the Department will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the Department will notify the family and the owner of the discrepancies.
Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The Department will not accept corrections by phone.

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

**OWNER PARTICIPATION**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

**ELIGIBLE UNITS**

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA’s jurisdiction. This includes the dwelling unit they are currently occupying.

*Ineligible Units [24 CFR 982.352(a)]*

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

*PHA-Owned Units [24 CFR 982.352(b)]*

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

TDHCA Policy

The Department does not have any PHA-owned units available for leasing under the voucher program.

*Special Housing Types [24 CFR 982 Subpart M]*

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

*Duplicative Assistance [24 CFR 982.352(e)]*

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.

**LEASE AND TENANCY ADDENDUM**
The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

**Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

**TDHCA Policy**

The Department 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, tenant and all family members;
- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner, and;
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

**Term of Assisted Tenancy [24 CFR 982.309]**

The initial term of the assisted dwelling lease must be for at least one year. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

**TDHCA Policy**

The Department will not approve an initial lease term of less than one (1) year except as a reasonable accommodation or as part of a VAWA transfer. During the initial term of the lease, the owner may not raise the rent to the tenant [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist. The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].
Security Deposit [24 CFR 982.313 (a) and (b)]

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

TDHCA Policy
The Department will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the PHA’s housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

TDHCA Policy
The Department 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, or are not permanently installed in the dwelling unit where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable federal requirements.

TDHCA Policy
If the dwelling lease is incomplete or incorrect, the Department will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The Department will not accept missing and corrected information over the phone.
Because the initial leasing process is time-sensitive, the Department will attempt to communicate with the owner and family by phone, fax, or email. The Department will use mail when the parties can’t be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with state and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)].

**TDHCA Policy**

The Department will not review the owner’s lease for compliance with state/local law.

**TENANCY APPROVAL [24 CFR 982.305]**

After receiving the family’s Request for Tenancy Approval (RTA), with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

**TDHCA Policy**

When a family finds a unit, and the owner is willing to lease the unit under the program, the family may request the Department to approve the lease and unit.

**Property owners cannot participate in the program if they are disapproved by the Department.**

If the Department determines that a unit which an eligible family wishes to lease meets HQS and the proposed lease is approved, the Department representative shall notify the owner and the family of its determination of lease approval.

After receiving notification from the Department, the owner and the Department shall schedule a meeting and execute and sign the contract. After the contract is executed, the owner and family shall execute and sign the lease and provide a copy to the Department.

The Department shall retain the following in its files:

- The RTA form;
- The approved lease;
- Inspection report;
- The Department certification of the current rent being charged for comparable units in the private unassisted market, taking into account the location, size, type, quality, amenities, facilities and management and maintenance service of such unit. This certification will be maintained for three years to comply with HUD regulations and HUD inspection; and
- Executed contract.
If the Department 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. The Department will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the Department 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.

**SUSPENSION OF SEARCH TIME**

**TDHCA Policy**

Upon receipt of the Request for Lease approval form from the family, the Department will stop the clock on (“Suspend”) the voucher term. The suspension time will equal the number of days it takes the Department to approve or deny the request for lease approval. The suspension of time is also called “tolling”.

<table>
<thead>
<tr>
<th>Toll Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voucher Issued: May 1</td>
</tr>
<tr>
<td>Expiration Date: June 29</td>
</tr>
<tr>
<td>Family Submits RTA: May 15</td>
</tr>
<tr>
<td>PHA Denies Unit: May 24</td>
</tr>
</tbody>
</table>

| Tolling Time: 9 Days (May 16-24) |
| New Voucher Expiration Date: July 8 (June 29 + 9 days) |

**HAP CONTRACT EXECUTION [24 CFR 982.305]**

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

HUD prescribes the HAP contract format.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

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

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance
with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the PHA may not pay any housing assistance payment to the owner.

**TDHCA Policy**

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the Department. The Department will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the Department will execute the HAP contract. The Department will not execute the HAP contract until the owner has submitted IRS form W-9. The Department 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.

**CHANGES IN LEASE OR RENT [24 CFR 982.308]**

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease, and;
- 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 RTA along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days prior to the anniversary date of the HAP contract and the change must be approved by the PHA before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is 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)].

**TDHCA Policy**

The PHA and tenant must receive owner notification of any request to increase the amount of rent at least (60) days before the changes go into effect. Any rent increase made after the initial term of the lease (12 months), will require a Rent Reasonableness review. Once the rent increase has been approved, a renewal lease will be required with both signatures. Each year, a renewal lease will be required. Contract rents may be adjusted by the Department on an annual basis or special adjustments as provided below:

**Annual Adjustment** – Upon request from the owner to the LO/Department, and tenant, an annual adjustment may be made if the contract unit is in decent, safe and sanitary condition, the owner is in
compliance with the terms of the lease and HAP contract. Additional reasons for a rental increase are as followed:

- Property taxes increased
- Insurance cost increased
- Maintenance items and or improvements were made

Special Adjustment – Subject to HUD approval, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the owner clearly demonstrates that such general increases have caused increases in the owner’s operating costs which are not adequately compensated for by the annual adjustment provided for in (1) above in this section. The owner shall submit financial statements to the LO representative which clearly support the increase.

Contract rents will not be adjusted by the Department on an annual basis for the following reasons:

Increase in the volume of Section 8 HCV paperwork

Protection against damages likely to be caused by Section 8 or lower income families

In cases where the Department disapproves an owner’s request for a contract rent increase, the Department will notify the owner and the family in writing and will state the reason for not approving the increase. Should an owner insist on the increase requested, the Department will notify the family and the owner that assistance will be terminated. The family will be offered a new voucher to relocate.
Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA’s jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA’s HCV program, whether the family moves to another unit within the PHA’s jurisdiction or to a unit outside the PHA’s jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA’s jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

ALLOWABLE MOVES

HUD regulations list five 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 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

- The lease for the family’s unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].

- The PHA has terminated the assisted lease for the family’s unit for the owner’s breach [24 CFR 982.314(b)(1)(ii)].

The PHA determines that the family’s current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family’s old unit in accordance
with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)].

**RESTRICTIONS ON MOVES**

A family’s right to move is generally contingent upon the family’s compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

**Denial of Moves**

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

*Insufficient Funding* [24 CFR 982.314(e)(1)].

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance.

**TDHCA Policy**

The Department will deny a family permission to move on grounds that the Department does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the Department; (b) the Department can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the Department can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the Department’s jurisdiction as well as to moves outside it under portability.

**Grounds for Denial or Termination of Assistance**

The PHA has grounds for denying or terminating the family’s assistance [24 CFR 982.314(e)(2)].

**TDHCA Policy**

If the Department has grounds for denying or terminating a family’s assistance, the Department will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

**Restrictions on Elective Moves** [24 CFR 982.314(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family’s initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

**TDHCA Policy**

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

The Department will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the Department’s jurisdiction. This also means that most families will not be given permission to move until their Annual Reexamination appointment.

The Department will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances (e.g., new employment,
school attendance in a distant area), or to address an emergency situation over which a family has no control. For a family to be able to move under one of the above reasons, the family must provide the Department with proper documentation to support the need to move (e.g., inspection report, neighborhood report, police report, employment offer letter, official school documentation, etc.).

In addition, the Department will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

**MOVING PROCESS**

**Notification**

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

**Approval**

**TDHCA Policy**

Upon receipt of a family's notification that it wishes to move, the Department 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. If the family is requesting to move at any time other than their annual renewal appointment, the Department Regional Coordinator (RC)/LO representative will notify the family of the Department's decision within 10 business days following receipt of the family's notification.

**Reexamination of Family Income and Composition**

**TDHCA Policy**

For families approved to move to a new unit within the Department's jurisdiction, the Department will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into a unit or families approved to move out of the Department's jurisdiction under portability, the Department will follow the policies set forth in Part II of this chapter.

**Voucher Issuance and Briefing**

**TDHCA Policy**

For families approved to move to a new unit within the Department's jurisdiction, the Department will issue a new voucher within 10 business days of the Department's written approval to move. No briefing is required for these families. The Department will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the Department approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the Department's jurisdiction under portability, the Department will follow the policies set forth in Part II of this chapter.

**Housing Assistance Payments [24 CFR 982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.
If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit.

Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

**PART II: PORTABILITY**

*OVERVIEW*

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA**. The second is called the **receiving PHA**.

The receiving PHA has the option of administering the family’s voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family’s housing assistance payments and the fees for administering the family’s voucher. Under the second option, the receiving PHA pays for the family’s assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

**INITIAL PHA ROLE**

*Allowable Moves under Portability*

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA’s jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

*Applicant Families*

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA’s jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

**TDHCA Policy**

The Department will accept ported vouchers within our jurisdiction but only if the initial PHA releases the voucher and enables the permanent absorption by TDHCA.
In determining whether or not to deny an applicant family permission to move under portability because the Department lacks sufficient funding or has grounds for denying assistance to the family, the Department will follow the policies established in section 10-I.B of this chapter.

In addition, the PHA 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)].

**TDHCA Policy**

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the Department’s jurisdiction at the time the family’s application for assistance was submitted, the family must live in the Department’s jurisdiction with voucher assistance for at least 12 months before requesting portability. The Department will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving PHA.

**Participant Families**

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b].]

**TDHCA Policy**

The Department will determine whether a participant family may move out of the Department’s jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The Department will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

**Determining Income Eligibility**

**Applicant Families.** An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d) (3)]. The family must specify the area to which the family wishes to move [Notice 2004-12]. The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c) (1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

**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), 24 CFR 982.355(c) (1)].

**Reexamination of Family Income and Composition**

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

**TDHCA Policy**

For a participant family approved to move out of its jurisdiction under portability, the Department generally will not conduct a reexamination of family income and composition unless the family’s annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The Department will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

**Briefing**

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

No formal briefing will be required for a participant family wishing to move outside the Department’s jurisdiction under portability. However, the Department will provide the family with the same oral and written explanation of portability that it provide to applicant families selected for admission to the program (see Chapter 5). The Department will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. The Department will advise the family that they will be under the receiving PHA’s policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term [24 CFR 982.353(b)]

An applicant family has no right to portability until after the family has been issued a voucher. In issuing vouchers to applicant families, the Department will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

TDHCA Policy

For families approved to move under portability, the Department will issue a new voucher within 10 business days of the Department’s written approval to move. The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

TDHCA Policy

The Department will approve no extensions to a voucher issued to an applicant or participant family porting out of the Department’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 Department’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-I.I.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 Department’s voucher program, a family that moves to another PHA’s jurisdiction under portability must be under HAP contract in the receiving PHA’s jurisdiction within 60 days following the expiration date of the Department’s voucher term (including any extensions). (See below under “Initial Billing Deadline” for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family’s request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c) (2)]. This means that the initial PHA must contact the receiving PHA directly on the family’s behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c) (2)].

TDHCA Policy

Because the portability process is time-sensitive, the Department will notify the receiving PHA by phone, fax, or e-mail to expect the family. The Department 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.

The Department will pass this information along to the family. The Department 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 2004-12]
- A copy of the family’s voucher [Notice PIH 2004-12]
- A copy of the family’s most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Notification to confirm if the PHA is billing or absorbing.

**TDHCA Policy**

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

- Last EIV print out
- 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.

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

Initial Billing Deadline [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA’s failure to comply with the deadline.

**TDHCA Policy**

If the Department has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the Department reports that the family is not yet under HAP contract, the Department will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family.

The Department will send the receiving PHA a written confirmation of its decision by mail.

The Department will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.
Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family’s voucher, the 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. The receiving PHA must receive subsequent payments 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. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

TDHCA Policy

The Department will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the Department that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058 and 52665

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 and 52665 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 and 52665 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.

  **TDHCA Policy**

  If the Department determines that it must deny moves because 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 Department’s jurisdiction.

  The Department 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)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

RECEIVING PHA ROLE
If a family has the right to lease a unit in the receiving PHA’s jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA’s procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA’s waiting list is not used [24 CFR 982.355(10)]. However, the family’s unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family’s housing assistance payment is determined in the same manner as for other families in the receiving PHA’s voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the PHA’s jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA’s procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family’s paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)].

If the receiving PHA initially bills the initial PHA for the family’s assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under “Absorbing a Portable Family” for more on this topic.)

TDHCA Policy

The Department must promptly inform the initial PHA if it intends to absorb or bill. The Department sends Part II of HUD Form 52665 to the initial PHA. If the Department decides to bill the initial PHA, the Department not only completes Part II of HUD Form 52665, but also attaches a copy of the new HUD form 50058 before returning it to the initial PHA. In addition to the initial billing deadline discussed above, the instructions of the HUD Form 52665 provide that the Department must complete and mail (which may include electronic mail or fax) Part II of the form within 10 working days from the date a HAP contract is executed on behalf of a family.

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 2004-12]. (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 2004-12].

TDHCA Policy

The Department will not require the family to attend a briefing. The Department will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the Department’s payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not redetermine income eligibility for a
portable family that was already receiving assistance in the initial PHA’s voucher program [24 CFR 982.355(c)(1)].

**TDHCA Policy**

For any family moving into its jurisdiction under portability, the Department will conduct a new reexamination of family income and composition. However, the Department will not delay issuing the family a voucher for this reason. Nor will the Department delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the Department cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the Department will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family’s current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

**Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b) (6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA’s voucher [24 CFR 982.355(c) (6)].

**Timing of Voucher Issuance**

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family’s paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures [Notice PIH 2004-12].

**TDHCA Policy**

When a family ports into the Department’s jurisdiction, the Department will generally issue the family a voucher within 10 business days. If the family paperwork is on time, complete, the voucher from the initial PHA has not expired and the family complies with all the Department’s procedures. The Department will update the family’s information when verification has been completed.

**Voucher Term**

The term of the receiving PHA’s voucher may not expire before the term of the initial PHA’s voucher [24 CFR 982.355(c) (6)].

**TDHCA Policy**

The Department’s voucher will expire on the same date as the initial PHA’s voucher.

**Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]**

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA’s voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

**TDHCA Policy**

The Department generally will not extend the term of the voucher that it issues to an incoming portable family unless the Department 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.
The Department will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under “Administering a Portable Family’s Voucher.”)

If an incoming portable family ultimately decides not to lease in the jurisdiction of the 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 2004-12]

Administering a Portable Family’s Voucher

Initial Billing Deadline

If a portable family’s search for a unit is successful and the receiving PHA intends to administer the family’s voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA executes a HAP contract on behalf of the family and (b) in time that the notice will be received no later than 60 days following the expiration date of the family’s voucher issued by the initial PHA [Notice PIH 2004-12]. 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.

TDHCA Policy

The Department 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 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, 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.

TDHCA Policy

The Department will send a copy of the updated HUD Form 50058 and 52665 by regular mail at the same time the family 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; and
• Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

**Late Payments [Notice PIH 2004-12]**

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the 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 Officer 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 2004-12]**

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 2004-12.

**Denial or Termination of Assistance**

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

**TDHCA Policy**

If the Department elects to deny or terminate assistance for a portable family, the Department will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The Department 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 Department will furnish the initial PHA with a copy of the review or hearing decision.

**Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

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 2004-12]

**TDHCA Policy**

If the Department decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the Department will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the Department decides to absorb a family after that, it will provide the initial PHA with 30 days’ advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA’s voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

**Chapter 11: REEXAMINATIONS**

**INTRODUCTION**

In accordance with HUD requirements, the PHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. It also explains the interim reporting requirements for families, and the standards for timely reporting. Interim reexaminations are also needed in certain situations.

This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA’s policies concerning reexaminations are presented in three parts:

- **Part I: Annual and Triennial 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]

OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family’s income and rent must be recalculated. The PHA will conduct a reexamination once every three years (triennially) for all fixed sources of income. Income consists solely of periodic payments at reasonable predictable levels. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

TDHCA Policy

The Department will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the Department 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). Records shall be maintained by the Department to insure that every participant’s income and family composition has been re-examined within a twelve-month period.

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

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How the information will be collected is left to the discretion of the PHA.

TDHCA Policy

Families generally are required to participate in an annual reexamination interview. Interviews may be conducted face-to-face or mail-in. The head of household, spouse, co-head must participate the briefing. If participation poses a hardship because of a family member’s disability, the family should contact the Department to request a reasonable accommodation (see Chapter 2).

Notification of the annual reexamination briefing/ interview will be sent by mail from the Department 120 days prior to the families’ annual reexamination date. The notification will inform the family of the information and documentation required for the briefing/ interview. In addition, the letter will indicate that the family must contact their LO/ Department to schedule an inspection.

If the family is unable to participate in a scheduled briefing/ interview, the family should contact the LO/ Department prior to the briefing date or deadline to return renewal document. If the family does not contact the Department, an Intent to Terminate notice will be mailed. If the family does not participate in a scheduled briefing/ interview, the LO/ Department will contact them to reschedule an appointment.

If the family fails to participate in two scheduled briefings/ interviews without Department approval, a notice of termination (see Chapter 12) will be sent to the family’s address of record, and to any alternate address provided in the family’s file.
An advocate, interpreter, or other assistant may assist the family in the interview process.

**CONDUCTING ANNUAL REEXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family’s income, expenses, and composition [24 CFR 982.551(b)].

**TDHCA Policy**

Families will be asked to bring or submit all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a Department-designated Personal Declaration form, an Authorization for the Release of Information/Privacy Act Notice, Child Support printouts, Income and Social Security award letters. Families will also be required to bring any supporting documentation related to the family’s income, expenses, family composition, and assets.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time-frame (plus any extensions), the family will be sent an Intent to Termination Notice (See Chapter 12).

The Annual HQS inspection, including follow up re-inspections must be completed and submitted with the Annual Reexamination/Moving packets to the RC prior to the renewal date.

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; and
- Citizenship or immigration status.

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

**DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education. If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student’s eligibility must be reexamined along with the income eligibility of the student’s parents on an annual basis. In these cases, both the student and the student’s parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student’s parents will not be considered in determining the student’s ongoing eligibility.
Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

**TDHCA Policy**

During the annual reexamination process, the PHA 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, the parents’ income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student’s assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

**EFFECTIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

**TDHCA Policy**

An *increase* in the family share of the rent that results from an annual reexamination will take effect on the 1st day of the family’s anniversary date, and the family will be notified, in writing, at least 30 days in advance. If notice is not mailed timely, the PHA will absorb the families increase portion for the month of the effective date.

Copies of such notifications will be retained in the participants file for (1) any change in rent and the date on which it becomes effective and (2) any change required because of a change in the composition of the family.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the 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 decrease that may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family’s anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the 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 the Department by the date specified, and this delay prevents the Department from completing the reexamination as scheduled.
Reexamination Notice to the Family

The PHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least 90 – 120 calendar days in advance of the anniversary date, unless it has been rescheduled or file reinstated. The PHA has developed a computerized tracking report to ensure all annual re-certifications are completed prior to the last annual date.

If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Completion of Annual Recertification

The PHA will have all re-certifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

Collection of Information [24 CFR 982.516(f)]

The PHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. The PHA will require the family to complete an application for Continued Occupancy form prior to all recertification interviews.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family’s income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family’s request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

TDHCA Policy

The Department will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.
New Family Members Not Requiring Approval [24 CFR 982.551(h)(2)].

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition.

**TDHCA Policy**

The family must inform the Department of the birth, adoption or court-awarded custody of a child within 10 business days, but may request additional time. However, documentation required for guardianship are:

- Court-ordered assignment
- School records
- Verification from Social Services agency/ Supplemental Nutrition Assistance Program (SNAP) showing family members
- Self-certification of temporary guardianship or appointment from parent

**New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

**TDHCA Policy**

Families must request Department approval to add a new family member, live-in aide, foster child, or foster adult. Any person not on the lease who is expected to stay in the unit longer than 30 consecutive days, or 60 cumulative days, within a twelve-month period, no longer qualifies as a “guest.” Requests must be made in writing and approved by the Department.

Before the Department will consider approval of the new addition to the household, the Department must receive a written letter from the owner of the property approving the addition.

The Department will not approve the addition of a new family or household member unless the individual meets the Department’s eligibility criteria (see Chapter 3).

The Department will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the Department determines an individual meets the Department’s eligibility criteria as defined in Chapter 3 and the owner approves the new addition, the Department 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 the Department determines that an individual does not meet the Department’s eligibility criteria as defined in Chapter 3, the Department will notify the family and owner of its decision to deny approval of the new family or household member and the reasons for the denial. In the case where the Department does not approve the addition of an individual to the household, but the owner does approve of the addition, the Department’s ruling will stand.
The Department will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

**Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit. [24 CFR 982.551(b)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

**TDHCA Policy**

If a household member ceases to reside in the unit, the family must inform the Department within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the Department within 10 business days. (see Chapter 7)

Family members who have been removed from the lease at the family’s request may not re-enter the household until the next annual recertification, and then only with the PHAs permission.

**CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

**PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

**TDHCA Policy**

The Department will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the Department will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).1

If the family has reported zero income, the Department will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

**Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

**Required Reporting**

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

**TDHCA Policy**
Families are required to report all increases in earned income for any wage earner eighteen (18) years of age or older, including new employment or loss of employment, within 10 business days of the date the change takes effect.

The starting of or stopping of, or an increase of or decrease of any benefits or payments received by any member of the family or household from:

a. Old Age Pension;
b. Aid for Dependent Children (TANF);
c. Black Lung;
d. Railroad Retirement;
e. Private Pension Fund;
f. Disability Compensation;
g. Veterans Administration;
h. Child Support;
i. Alimony;
j. Regular Contributions; or
k. Gifts.

Lump sum payments or retroactive payments of benefits from any of the above sources that constitute the sum of monthly payments for a preceding period paid in a lump sum must be reported and rent adjusted retroactively on such income to date of eligibility for any family member residing in the household for that period of time.

Cost of living increases in Social Security or public assistance grants need not be reported until next re-examination and re-determination of rent.

Errors of omission made while admitted to the program shall be corrected at the re-examination. Retroactive payments will be made to the participant if the error is in his/her favor.

A participant who has had a rent reduction/increase after initial occupancy or after annual re-examination must report all changes in income within ten (10) business days regardless of the amount or source.

The Department will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family’s share of rent will change as a result of the increase. In all other cases, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b) (2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family’s share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

TDHCA Policy
Families may report changes in income or expenses at any time within ten (10) business days.

**PROCESSING THE INTERIM REEXAMINATION**

*Method of Reporting*

**TDHCA Policy**

The family may notify the Department of changes in writing. If the family provides oral notice, the Department will require the family to submit the changes in writing.

The family will not be required to attend an interview for an interim reexamination. However, if the Department determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the Department will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the Department. This time-frame may be extended for good cause with Department approval. The Department will accept required documentation by email, mail, fax, or in person.

Interim increases in Tenant Rent will be made only when:

1. The tenant has misrepresented any facts related to income or deductions from income;
2. The tenant has claimed zero income and has been verified to have cash or non-cash income;
   or
3. The tenant has experienced an increase in income of at least $3,000 per year after having received an interim decrease in rent. If yearly income verified thru 3rd party verification is less than the minimum yearly amount, the Department will not process the interim change and file the documents in the file.

**Effective Dates**

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

**TDHCA Policy**

The family must report changes in income before the 15th of the month in order to have the decreased rent effective for the first of the following month.

If paperwork to process the reduction is not received by the 15th of the month, the decreased rent may not be effective by the first of the following month. Therefore, the family will be responsible for the rent until the change has been processed.

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 causes delays in completing an interim re-certification, the Authority may terminate assistance.

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. All required documentation must be submitted in cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA’s calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family’s situation changes, new payment standards are applied at the following times:

- If the PHA’s payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has 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 the PHA’s subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family’s first annual reexamination following the change in family unit size.
**Utility Allowances** [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family’s utility arrangement with the owner, or in the PHA’s utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

**TDHCA 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 by the Department.

**NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA’s determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

**DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.
Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a family’s assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family’s assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family’s behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA must take when terminating a family’s assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner’s right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

OVERVIEW

HUD requires the PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the PHA.

FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family’s income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

TDHCA Policy

If a participating family receiving assistance experiences a change in circumstances that would cause the HAP payment to increase, the family must notify the Department within 30 days of the changed circumstances and request an interim reexamination 30 days before the expiration of the 180-day period.

FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate the family's assistance at any time.

TDHCA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family’s assistance, the Department will follow the notice requirements in Section 12-II.E.

MANDATORY TERMINATION OF ASSISTANCE
HUD requires the PHA to terminate assistance in the following circumstances.


The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incident or incidents of actual or threatened domestic violence, sexual violence, dating violence, sexual assault or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

**TDHCA Policy**

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the Department 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.

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, failure to pay utility bills and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

**Failure to Provide Consent** [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

**Failure to Document Citizenship** [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member’s citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family’s assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

**Failure to Provide Social Security Documentation** [24 CFR 5.218(c), Notice PIH-2010-3]

The PHA must terminate assistance if a participant family fails to provide the documentation or certification required for any family member and documentation necessary to verify each social security number.

If the family is otherwise eligible for continued program assistance, and the PHA determines that the family’s failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family’s control, the PHA may defer the family’s termination and provide the opportunity to comply with the requirements within the period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

**TDHCA Policy**

The PHA 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 the circumstances beyond the participant’s control such as delayed processing of the SSN application by the SSA.
Methamphetamine Manufacture or Production [24 CFR 983.553(b) (1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

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

Use of Illegal Drugs and Alcohol Abuse

TDHCA Policy

If any household member is currently engaged in, or convicted in any of the following criminal activities, within the past five (5) years, the family will be terminated:

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. This includes the distribution, possession, sale or use of medical marijuana. [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].

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity. A pattern of illegal use of drugs or violent criminal activity, whether established by one or more arrests or one or more convictions of the same or similar criminal activity will be given more weight than a single arrest for such activity.

A record that an applicant or household member has been paroled or released from a facility for violence to persons or property.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the Department 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.

**TDHCA Policy**

The Department will terminate a family’s assistance if any household member has been convicted of any drug-related or violent criminal activity during participation in the HCV program.

The Department will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

**Other Authorized Reasons for Termination of Assistance [24 CFR §982.552(c)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance.

**TDHCA Policy**

The Department **will not** terminate a family’s assistance because of the family’s failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

The Department **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 PHA policies.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the Department.
- The family does not provide complete and true information to the PHA.
- The family does not provide information that the PHA or HUD determines is necessary in determining program eligibility.
- The family failed to disclose and verify social security numbers and submit and sign consent forms for obtaining information.
• Has made fraudulent misrepresentation on his/her application for HCV assistance.
• A family member has engaged in or threatened violent or abusive behavior toward Department personnel.

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

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

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance under the above list.

Family Absence from the Unit [24 CFR §982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 90 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

TDHCA Policy

If the family is absent from the unit for more than 90 consecutive calendar days, the family’s assistance will be terminated. Notice of termination will be sent in accordance with this section.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

OVERVIEW

The PHA is required by regulation to terminate a family’s assistance if certain program rules are violated. For other types of offenses, the regulations give the PHA the discretion either to terminate the family’s assistance or to take another action.

This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

• Terminating housing assistance payments under a current HAP contract,
• Refusing to approve a request for tenancy or to enter into a new HAP contract, or
• Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE
Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

TDHCA 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 Department request.

Repayment of Family Debts

TDHCA Policy

If a family owes amounts to the Department, as a condition of continued assistance, the Department will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Department of the amount owed. No other repayment agreement will be entered upon. See Chapter 16 for policies on repayment agreements.

CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

TDHCA Policy

The Department will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

TDHCA Policy

The Department 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;
- 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; and

The Department 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.

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

If the family includes a person with disabilities, the PHA’s decision to terminate the family’s assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

TDHCA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the Department will determine whether the behavior is related to the disability. If so, upon the family’s request, the Department will determine whether alternative measures are appropriate as a reasonable accommodation. The Department 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.

TERMINATION NOTICE [HCV GB, p. 15-7]

If a family’s assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated,
- The effective date of the termination, and
- The family’s right to an informal hearing as described in Chapter 16.

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

TDHCA Policy

When the Department initiates termination, 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 Department, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the Department learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the Department (see section 12-I.C.). The Department will then send a confirmation notice to the family and the owner no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member’s citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the
results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

**TDHCA 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.

**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**

**OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

**GROUNDS FOR OWNER TERMINATION OF TENANCY** [24 CFR 982.310 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. This includes failure to pay rent or other amounts due under the lease. However, the PHA’s failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

*Violation of Federal, State, or Local Law*

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

*Criminal Activity or Alcohol Abuse*

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant’s control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
• Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

• Any violent criminal activity on or near the premises; or

• Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

• Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

• Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

**Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

**Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

• Failure by the family to accept the offer of a new lease or revision;

• The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

• A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

**EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action. The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).
**TDHCA Policy**

If the eviction action is finalized in court, the owner must provide the Department with documentation related to the eviction, including notice of the eviction date, as soon as possible following the court-ordered eviction.

**DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]**

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 seriousness of the offending action;
- The effect on the community of the termination, or of the owner’s failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and
- 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.

**EFFECT OF TERMINATION OF TENANCY ON THE FAMILY’S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).
EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.

- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.

- Any information supplied by the family must be true and complete.

- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

**TDHCA Policy**

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

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

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

**TDHCA Policy**

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

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

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

**TDHCA Policy**

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

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

**TDHCA Policy**

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

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

  **TDHCA Policy**

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

• The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.

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

  **TDHCA Policy**

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the Department at the start of the extended absence.

• The family must pay utility bills, provide, and maintain any appliances that the owner is not required providing under the lease [Form HUD-52646, Voucher].

• The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

• Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

• Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.

• Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.

• An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

• A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]
Chapter 13: OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

  Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

  Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I: OWNERS IN THE HCV PROGRAM

OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

TDHCA Policy

The Department will conduct owner outreach within its jurisdiction to ensure that owners are familiar with the program and its advantages. The Department will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies may include:

  - Distributing printed material about the program to property owners and managers;
  - Contacting property owners and managers by phone or in-person;
  - Participating in community based organizations comprised of private property and apartment owners and managers; and
  - Developing working relationships with owners and real estate brokers associations.

Outreach strategies will be monitored for effectiveness, and adapted accordingly.
Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

**TDHCA Policy**

All Department activities that may affect an owner’s ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The Department will provide owners with a Landlord handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The Department will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated Department contact person;
- Coordinating inspection and leasing activities between the Department, the owner, and the family;
- Initiating telephone contact with the owner to explain the inspection process and HUD Housing Quality Standards;
- Provide an inspection booklet, other written information how the program operates resource materials about HUD housing quality standards; and
- Additional services may be undertaken on an as-needed basis, and as resources permit.

**BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

**TDHCA Policy**

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the LO/Department in their area. The LO/Department will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family’s request for assistance in the specified unit, and which documents the owner’s willingness to lease to the family and to follow the program’s requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner’s proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history.
with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner’s dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family’s tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). HUD prescribes the HAP contract format. 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.

**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;
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to the PHA information required under the HAP contract;
- Collecting from the family any security deposit, the tenant’s contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family;
- Enforcing tenant obligations under the dwelling lease;
- Paying for utilities and services (unless paid by the family under the lease); and
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203].
OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner);
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; and
- Any member of the Congress of the United States.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
• If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;

• If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;

• If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program; and

• If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

**TDHCA Policy**

In considering whether to request a conflict of interest waiver from HUD, the Department will consider the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

**Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the PHA, at the PHA’s discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner’s properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

**TDHCA Policy**

The Department will refuse to approve a request for tenancy if any of the following are true:

• The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

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

• The owner has engaged in any drug-related criminal activity or any violent criminal activity;

• The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

• The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

• The owner has a history or practice of renting units that fail to meet state or local housing codes; and

• The owner has not paid state or local real estate taxes, fines, or assessment.
In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA 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.

Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

**TDHCA Policy**

The Department 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).

**NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II: HAP CONTRACTS

**OVERVIEW**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner’s responsibilities under the program, as well as the PHA’s obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space.

See chapter 15 for a discussion of any special housing types included in the PHA’s HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

**HAP CONTRACT CONTENTS**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial
monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract that prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

**TDHCA Policy**

The Department has not adopted a policy that defines when the housing assistance payment by the Department 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; and
- Entire Agreement Interpretation;

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

**HAP CONTRACT PAYMENTS**

**General**

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month.
The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment. HAP payments can be made only during the lease term, and only while the family is residing in the unit.

Part of the PHAs efforts to streamline business processes are to recommend owners to set-up with direct deposit. In the event the owner declines, a written request must be submitted and recorded in the owners file.

Checks that are not received will not be replaced until 10 business days have passed from the date of the mailing, and a written request has been received from the payee to stop payment and re-issue.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family’s lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family’s share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b) (4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner’s knowledge, the family resides in the unit as the family’s only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner’s normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family’s share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA’s control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].
**Termination of HAP Payments**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

**TDHCA Policy**

The owner must inform the Department when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the Department when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the Department with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the Department 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 (unless the unit fails to meet HQS or the Owner violates some other part of the HCV program). The owner must inform the Department of the date when the family actually moves from the unit or the family is physically evicted from the unit.

**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; and

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.
TDHCA Policy

Before the Department invokes a remedy against an owner, the Department will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the Department will conduct an audit of the owner’s records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the Department 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.

HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last HAP to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires; and
- The PHA elects to terminate the HAP contract.

TDHCA Policy

The Department 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; and
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

TDHCA Policy
In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Department gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the Department 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].

**CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

The assignment 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.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement and recorded deed.

**TDHCA Policy**

The Department must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner’s request, the Department will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the Department that includes:

- Recorded deed, copy of the escrow statement/ or document showing the transfer of title;
- 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;
- Management Agreement to comply with the terms of the HAP contract
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the Department will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the Department will process the leasing in accordance with the policies in chapter 9.
Chapter 14: PROGRAM INTEGRITY

INTRODUCTION
The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

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

PREVENTING ERRORS AND PROGRAM ABUSE

TDHCA Policy
The Department anticipates that the vast majority of families, owners, and Department employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the Department’s HCV program is administered effectively and according to the highest ethical and legal standards, the Department will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The Department will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The Department will provide each applicant and participant with the publication Things You Should Know (HUD-1140-OIG) that explains the types of actions a family must avoid and the penalties for program abuse.

The Department will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key Department forms and form letters that request information from a family or owner.

Department staff will be required to review and explain the contents of all HUD- and Department-required forms prior to requesting family member signatures.

The Department will provide all first-time owners (or their agents) with Landlord Informational packets.

The Department will provide each Department 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.
DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

TDHCA Policy

In addition to the SEMAP quality control requirements, the Department will employ a variety of methods to detect errors and program abuse.

The Department routinely will use available sources of enterprise income verification to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The Department will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

TDHCA Policy

The Department will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the Department’s error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

TDHCA Policy

The Department will encourage staff, program participants, and the public to report possible program abuse.

INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

TDHCA Policy

The Department will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the Department to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The Department will investigate inconsistent information related to the family that is identified through file reviews and the verification process.
Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

TDHCA Policy

The Department will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation, the Department will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to the Department, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

TDHCA Policy

In the case of family-caused errors or program abuse, the Department will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the Department 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

TDHCA Policy

The Department will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the Department determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.
**TDHCA Policy**

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

**Reimbursement**

Whether the family or owner is required to reimburse the PHA or the PHA 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.

**FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

**Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]**

**TDHCA Policy**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The Department may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the Department will terminate the family’s assistance in accordance with the policies in Chapter 12.

**PHA Reimbursement to Family [HCV GB p. 22-12]**

**TDHCA Policy**

The Department will not reimburse the family for any underpayment of assistance when the family clearly causes the underpayment.

**Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

**TDHCA Policy**

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the Department for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the Department Board of Commissioners, employees, contractors, or other Department representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the Department on the family’s behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
Intentional misreporting of family information or circumstances (e.g. income, family composition);

Omitted facts that were obviously known by a family member (e.g., not reporting employment income); and

Admission of program abuse by an adult family member.

The Department may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family’s assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-I.E.

OWNER- CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

TDHCA Policy

In cases where the owner has received excess subsidy, the Department will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

TDHCA Policy

Any of the following will be considered evidence of owner program abuse:
Charging the family rent above or below the amount specified by the Department;
Charging a security deposit other than that specified in the family’s lease;
Charging the family for services that are provided to unassisted tenants at no extra charge;
Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
Knowingly accepting incorrect or excess housing assistance payments;
Offering bribes or illegal gratuities to the Department Board of Commissioners, employees, contractors, or other Department representatives;
Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the Department; and
Residing in the unit with an assisted family.

Remedies and Penalties
When the PHA determines that the owner has committed program abuse, the PHA 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.

PHA-CAUSED ERRORS OR PROGRAM ABUSE
The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the PHA
Neither a family nor an owner is required to repay an overpayment of subsidy if PHA staff [HCV GB. 22-12] cause the error or program abuse.

PHA Reimbursement to Family or Owner
The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA’s administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

TDHCA Policy
Any of the following will be considered evidence of program abuse by Department or LO staff:

Failing to comply with any HCV program requirements for personal gain;
Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the Department;

Disclosing confidential or proprietary information to outside parties;

Gaining profit as a result of insider knowledge of Department activities, policies, or practices;

Misappropriating or misusing HCV funds;

Destroying, concealing, removing, or inappropriately using any records related to the HCV program; and

Committing any other corrupt or criminal act in connection with any federal housing program.

**CRIMINAL PROSECUTION**

**TDHCA Policy**

When the Department determines that program abuse by an owner, family, or Department staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the Department 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.

**FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.
Chapter 15: SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

TDHCA Policy

The Department only operates a Section 8 Housing Choice Voucher Program. 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 I: SINGLE ROOM OCCUPANCY
[24 CFR 982.602 through 982.605]

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.

PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the PHA's payment standard schedule.
The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

**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 C FR 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-and-a-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]

**OVERVIEW**

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

**PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**
The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident’s monthly housing expense only. The residents’ costs for food service should not be included in the rent for a congregate housing unit.

**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**


**OVERVIEW**

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

**PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA’s subsidy standard. If there is a live-in aide, the aide must be counted in determining the household’s unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorate share of the payment standard for the group home size. The prorate 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 prorate 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 prorate portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

**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 Materials**: 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]

OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

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 prorate 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, the PHA should consider whether sanitary and food preparation areas are private or shared.

HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- Facilities Available for the Family: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
• *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

**PART V. COOPERATIVE HOUSING**

[24 CFR 982.619]

**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.

**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.

**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]

**OVERVIEW**

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VLD below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. PHAs may, but are not required to, provide assistance for such families.
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.

PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards
The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance
The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent
The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment
The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness
Initially, and annually thereafter the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the Manufactured Home Park or elsewhere.

HOUSING QUALITY STANDARDS
Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:
Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.
CHAPTER 16: PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA’s policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA’s responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.
PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses, the PHA may use these funds for other housing purposes permitted by Federal, State and local law.

If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

TDHCA Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. The maximum amount that may be charged against the administrative fee reserve is $25,000 or as may be adjusted by the PHA official.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

OVERVIEW

Although HUD establishes many of the program’s requirements centrally, the HCV program’s regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- Payment Standards, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- Utility Allowances, which specify how a family’s payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

TDHCA Policy

Copies of the payment standard and utility allowance schedules are available for review in the Department’s offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The Department 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.

PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions, FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA’s jurisdiction, and for each unit size within each of the FMR areas. For each unit
size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area.

Unless HUD grants an exception, the PHA is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

**Updating Payment Standards**

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA’s jurisdiction are unacceptably high 24 CFR 982.503(g).

**TDHCA Policy**

The Department will review 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”, the Department will consider the following factors when determining whether and when an adjustment should be made to the payment standard schedule:

- **Funding Availability**: The Department will review the budget to determine the impact that projected subsidy adjustments will have on funding available for the program and the number of families served. The Department will compare the number of families that could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

- **Rent Burden of Participating Families**: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly-adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the Department will consider increasing the payment standard. In evaluating rent burdens, the Department will not include families renting a larger unit than required for their family unit size.

- **Quality of Units Selected**: The Department may review the quality of units selected by participant families when making the determination of the percent of income that 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**: The Department may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

- **Unit Availability**: The Department may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

- **Lease-up Time and Success Rate**: The Department may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1 of every year unless, based on the proposed FMRs, it appears that one or more of the PHA’s current payment standard amounts will be outside the basic range when the final FMRs are published.

If the PHA has already processed reexaminations that will be effective on or after January 1, and the effective date of the payment standards is January 1, the PHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the PHA at the time the reexamination was originally processed.
Exception Payment Standards [982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD’s sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c) (2) (ii)]

Unit-by-unit exceptions to the PHA’s payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA’s payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls above 120 percent of the FMR.

TDHCA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the PHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family’s Total Tenant Payment (TTP) would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a “success rate payment standard” that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA’s jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the
basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

**UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain an updated utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service are stated separately by unit size and type. Chapter 16 of the HCV Guidebook provides detailed guidance to the PHA about establishing utility allowance schedules.

**TDHCA Policy**

The Department may outsource the preparation of utility allowances to a qualified provider. In addition, TDHCA will use the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined under the TDHCA subsidy standards (unless the size of the dwelling unit is larger because of a reasonable accommodation, in which case TDHCA will use the utility allowance for the larger unit size.)

**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.

**TDHCA Policy**

The Department has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the Department will apply this allowance to a family’s rent and subsidy calculations.

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation for a larger unit size, it will use the utility allow for the size of the dwelling unit actually used by the family.

**Utility Allowance Revisions**

The PHA must review its schedule of utility allowances at least every 12 months, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.
The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

**PART III: INFORMAL REVIEWS AND HEARINGS**

**OVERVIEW**

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

**INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

*Decisions Subject to Informal Review*

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease; and
- 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 the PHA;
- General policy issues or class grievances;
- A determination of the family unit size under the PHA subsidy standards;
- A PHA determination not to grant approval of the tenancy;
- A PHA determination that the unit is not in compliance with the HQS; and
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition.

**TDHCA Policy**

The Department will only offer an informal review to applicants for whom assistance has been denied. Denial of assistance includes Department’s refusal to include applicant on waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; or refusing to process or provide assistance under portability procedures.
Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

TDHCA Policy

A request for an informal review must be made in writing and delivered to the Department, either in person or by mail, by the close of the business day, no later than 10 business days from the date of the Department’s denial of assistance.

The Department must schedule and send written notice of the informal review within 10 business days of the family’s request.

Informal Review Procedures [24 CFR 982.554(b)]

A person other than the one who made or approved the decision under review, or a subordinate of this person must conduct the informal review.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the review will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA’s final decision, including a brief statement of the reasons for the final decision.

TDHCA Policy

In rendering a decision, the Department 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 federal law, the regulations or this plan, then the decision to deny assistance will be overturned.

The validity of the evidence. The Department will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and HUD requires the denial, the Department will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the Department will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The Department will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, PUB.L. 109-162]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA’s HCV
program and is currently assisted in the program. The purpose of the informal hearing is to consider whether
the PHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations
and PHA policies.

The PHA is not permitted to terminate a family’s assistance until the time allowed for the family to request an
informal hearing has elapsed, and any requested hearing has been completed. The PHA will provide a 30-day
notice or more prior to termination unless the family has been confirmed as a skip or a deceased person. This
shall provide adequate time for the participant to request a hearing and a hearing to be scheduled. Deceased
clients with no eligible remaining family member shall have the contract terminated the last day of the month
in which the death occurred. 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; and
- Refusing to process or provide assistance under portability procedures.
- Skipping — defined as a family who moves from the assisted unit without prior appropriate notice to the
  owner and the approval of the PHA. This must be a written approval or proof of certified mailing if the
  owner cannot be reach or refusing to sign and the lease is now a month-to-month lease. PHA must also
  receive this notice and approve by issuances of a voucher prior to the move.

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are
as follows:

- A determination of the family’s annual or adjusted income, and the use of such income to compute the
  housing assistance payment;
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility
  allowance schedule;
- A determination of the family unit size under the PHA’s subsidy standards;
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms
  than appropriate for the family unit size under the PHA’s subsidy standards, or the PHA determination
to deny the family’s request for exception from the standards;
- A determination to terminate assistance for a participant family because of the family’s actions or failure
to act;
- A determination to terminate assistance because the participant has been absent from the assisted unit for
  longer than the maximum period permitted under PHA policy and HUD rules; and
- 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)].

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- Establishment of the PHA schedule of utility allowances for families in the program;
- A PH2A determination not to approve an extension or suspension of a voucher term;
- A PHA determination not to approve a unit or tenancy;
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS;
• A PHA determination that the unit is not in accordance with HQS because of family size; and

• A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

**TDHCA Policy**

The Department will offer participants the opportunity for an informal hearing when required to by the regulations.

**INFORMAL HEARING PROCEDURES**

*Notice to the Family [24 CFR 982.555(c)]*

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family’s annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family’s assistance, or the denial of a family’s request for an exception to the PHA’s subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

**TDHCA Policy**

In cases where the Department makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The Department’s hearing procedures.
- The proposed action or decision of the Department.
- 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 the Department’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.
- Identification of the person to whom the hearing request should be addressed.

*Scheduling an Informal Hearing [24 CFR 982.555(d)]*

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

**TDHCA Policy**

The family must submit, in writing, a request for an informal hearing and deliver it to the Department either in person, by mail, or by courier at the close of the business day. The request for an informal hearing must be submitted to the Department no later than 10 business days from the date of the Department’s decision or notice to terminate assistance.
The Department must schedule and send written notice to the family for the informal hearing appointment within 10 business days of receipt 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 that seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date. At its discretion, the Department 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 the Department within 24 hours of the scheduled hearing date, excluding weekends and holidays to request that the Department consider rescheduling the hearing. The Department will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA’s expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

TDHCA Policy

One copy of documents requested will be provided to the family free of charge. Any fees for copying or procuring subsequent copies of the documents shall be at the expense of the family, at a cost of $.25 per page. The family must request discovery of Department documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The Department must be given an opportunity to examine at the Department offices, before the hearing, any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the Department 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, a lawyer or other representative at the informal hearing may represent the family.

Informal Hearing Officer [24 CFR 982.555(e)(4)] and Attendance at the Informal Hearing

Informal hearings will be conducted by hearing officer identified as the Deputy Executive Director with responsibility for the Community Affairs Programs or her designee.

TDHCA Policy
The Department’s structure for conducting an informal hearing consists of a hearing officer (as defined above) and at least two other persons, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision to terminate assistance.

A hearing officer and the following applicable persons may attend hearings:

- A Department representative, Department's counsel, and any witnesses for the Department;
- The participant and any witnesses for the participant;
- The participant’s counsel or other representative; and
- Any other person approved by the Department as a reasonable accommodation for a person with a disability.

**Conduct at Hearings**

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA’s hearing procedures [24 CFR 982.555(4)(ii)].

**TDHCA Policy**

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

**Evidence [24 CFR 982.555(e)(5)]**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

**TDHCA 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**: written documentation relevant to the case includes 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 the Department or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.
Hearing Officer’s Decision [24 CFR 982.555(e) (6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

**TDHCA Policy**

In rendering a decision, the hearing officer will consider the following matters:

- **Department Notice to the Family:** The hearing officer will determine if the reasons for the Department’s decision are factually stated in the Notice.

- **Discovery:** The hearing officer will determine if the Department and the family were given the opportunity to examine any relevant documents in accordance with Department policy.

- **Department Evidence to Support the Department 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 the Department’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 Department policies. If the grounds for termination are not specified in the regulations or in compliance with Department policies, then the decision of the Department will be overturned.

The hearing officer will issue a written decision to the family and the Department no later than 10 business days after the hearing. The report will contain the following information:

- **Hearing information:**
  - Name of the participant;
  - Date, time and place of the hearing;
  - Name of the hearing officer;
  - Name of hearing committee representatives; and
  - Name of family representative (if any).

- **Background:** A brief, impartial statement of the reason for the hearing.

- **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Department’s decision.
• **Order:** The hearing report will include a statement of whether the Department’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Department to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct the Department to restore the participant’s program status.

*Procedures for Rehearing or Further Hearing*

**TDHCA Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the Department will take effect and another hearing will not be granted.

In addition, within 10 business days after the date of the hearing officer’s report is presented to the Department and mailed to the participant, the Department or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer’s report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the Department to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

**PHA Notice of Final Decision [24 CFR 982.555(f)]**

The department is not bound by the decision of the hearing officer for matters in which the Department is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the Department determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the Department must promptly notify the family of the determination and the reason for the determination.

**TDHCA Policy**

The Department 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 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 of mailing will be maintained in the Department’s file.

**HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal
process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens 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 pro-ration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief and the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA upon completion of the USCIS either appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

**TDHCA Policy**

The Department will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the Department with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

**TDHCA Policy**

The Department will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family’s immigration status.
Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial or 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.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family’s expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family’s eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

TDHCA Policy

One copy of documents requested will be provided to the family free of charge. Any fees for copying or procuring additional copies of documents shall be at the expense of the family. at a cost of $0.25 per page copy. The family must request discovery of PHA 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 the PHA, and to

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family’s expense, and to have such person make statements on the family’s behalf. The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

TDHCA Policy

The Department will not provide a transcript of an audio-taped hearing unless requested and only if available.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.
Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance;
- The form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for an USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing;
- The final informal hearing decision;

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA’s policies for recovery of monies that have been overpaid on behalf of families, or to owners.

TDHCA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the Department holds the owner or participant liable to return any overpayments to the Department.

The Department will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

REPAYMENT POLICY

Owner Debts to the PHA

TDHCA Policy

The owner must repay any amount due to the Department within 30 business days of the Department determination of the debt.

If the owner fails to repay the debt within the required time-frame and is entitled to future HAP payments, the Department 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, refuses to repay the debt within the required time-frame, or breaches a repayment agreement, the Department will ban the owner from future participation in the program, may pursue other modes of collection, and/or report to the Inspector General.
Family Debts to the PHA

TDHCA Policy

The family must repay any amount due to the Department. If the family is unable to repay the debt within 30 business days, the Department 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, the Department will terminate the assistance upon notification to the family and may pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term repayment agreement refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time-periods. The PHA will not enter into more than one repayment agreement. If the family has not fulfilled their existing repayment agreement, the family will be terminated from the program and the debt will be recorded in EIV.

REPAYMENT AGREEMENT GUIDELINES

Down Payment Requirement

TDHCA Policy

Prior to the execution of a repayment agreement, the owner or family must pay 20 percent of the balance owed to the Department.

Payment Thresholds

TDHCA Policy

The PHA will enter into repayment agreements for amounts not to exceed $4,000. The PHA will not enter into a repayment agreement for amounts greater than $4,000 and will terminate the family from the program and recorded in EIV.

Execution of the Agreement

TDHCA Policy

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

TDHCA Policy

All payments are due by the close of business on the 5th day of the month. If the 5th is not on a business day, the due date is the close of business on the first business day after the 5th.

Non-Payment

TDHCA Policy

If a payment is not received by the end of the business day on the date due, and the Department has not given prior approval for the missed payment, the Department will consider the repayment agreement in default and the PHA will terminate assistance upon written notification. Exceptions may be made to the deadline in extenuating circumstances.
No Offer of Repayment Agreement

TDHCA Policy

The Department 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 is more than the $4,000 and the amounts exceeds the Federal or Stated threshold for criminal prosecution.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time-frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].
If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA’s certification on the indicator due to the PHA’s failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

**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 $750,000 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>Indicator 1: Selection from the waiting list</th>
<th>Maximum Score: 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.</td>
<td></td>
</tr>
<tr>
<td>Points are based on the percent of families that are selected from the waiting list in accordance with the PHA’s written policies, according to the PHA’s quality control sample.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 2: Rent reasonableness</th>
<th>Maximum Score: 20</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units.</td>
<td></td>
</tr>
<tr>
<td>Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA’s quality control sample.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 3: Determination of adjusted income</th>
<th>Maximum Score: 20</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</td>
<td></td>
</tr>
<tr>
<td>Points are based on the percent of files that are calculated and verified correctly, according to the PHA’s quality control sample.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 4: Utility allowance schedule</th>
<th>Maximum Score: 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</td>
<td></td>
</tr>
<tr>
<td>Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA’s certification.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 5: HQS quality control inspections</th>
<th>Maximum Score: 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator shows whether a PHA supervisor re-inspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS</td>
<td></td>
</tr>
</tbody>
</table>
• Points are based on whether the required quality control re-inspections were completed, according to the PHA’s certification.

**Indicator 6: HQS enforcement**
**Maximum Score: 10**
- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, either 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, or the PHA took appropriate action.
- Points are based on whether the PHA took appropriate action when the responsible party failed to correct all HQS deficiencies in accordance with required time-frames, according to the PHA’s certification.

**Indicator 7: Expanding housing opportunities**
**Maximum Points: 5**
- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA’s certification.

**Indicator 8: FMR limit and payment standards**
**Maximum Points: 5 points**
- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA’s jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA’s certification.

**Indicator 9: Annual reexaminations**
**Maximum Points: 10**
- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are not overdue, according to data from PIC.

**Indicator 10: Correct tenant rent calculations**
**Maximum Points: 5**
- This indicator shows whether the PHA correctly calculates the family’s share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-contract HQS inspections**
**Maximum Points: 5**
- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the
effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Annual HQS inspections**  
**Maximum Points: 10**
- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are not overdue, according to data from PIC.

**Indicator 13: Lease-up**  
**Maximum Points: 20 points**
- This indicator shows whether the PHA enters into HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA’s last year-end operating statement that is recorded in HUD’s accounting system.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**  
**Maximum Points: 10**
- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income that 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 is not effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator**  
**Maximum Points: 5**
- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50-percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.
PART VI: RECORD KEEPING

OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three (3) years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.;
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family’s citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

The PHA must also keep the last three (3) years of the form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three (3) years from the end of participation (EOP) date.

RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

TDHCA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Department staff.

Department 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. Electronic data is kept in compliance with 24 CFR Part 908.
Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Enterprise Income Verification (EIV) Records

PHAs that access EIV data through HUD’s 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 Enterprise Income Verification (UIV) System PHA Security Procedures, Version 1.1, issued April 4, 2004.

TDHCA Policy

The Department has implemented EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person’s disability unless needed to qualify for a voucher that is based on having a qualifying disability or as needed to evaluate the need for a reasonable accommodation. The PHA may not inquire details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file or mark thru with a black marker and photocopy. The PHA should destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

OVERVIEW

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are
discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to reliable.

**REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

**TDHCA Policy**
The Department will provide the local public health department with written notice of the name and address of any child identified as having an environmental intervention blood lead level.

**DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

**TDHCA Policy**
The Department will provide an updated list of the addresses of units receiving assistance under the HCV program to the Department of State and Health Services, Child Lead Poisoning Prevention Program on a quarterly basis.

**Determination of Insufficient Funding**

The HCV regulations allow PHA to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA’s ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

**Methodology**
The PHA will determine where there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHAs 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.
CHAPTER 17: PROJECT-BASED VASH (PBV)

INTRODUCTION

PROJECT-BASED VASH (PBV)

Since Fiscal Year (FY) 2008, Housing Choice Voucher program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by Title 42, Chapter 8, Subchapter I, § 1437f(o)(19) of the United States Housing Act of 1937. The initiative, known as the HUD-VASH program, was initially authorized by the Consolidated Appropriations Act, 2008. Each annual HUD appropriation since 2008 has continued to authorize this program.

In addition, HUD has periodically made set-aside funding available for project-based HUD VASH vouchers (PBV). Applications for HUD's PBV set-aside funding are released to the public as federal appropriations allow.

The PBV program will result in a de-concentration of poverty and an expansion of housing and economic opportunities. The standards comply with the policy goals, civil rights requirements, and housing quality standards found in 24 CFR § 983.57(h) and other provisions of the Code of Federal Regulations, as well as other guidance from the Department of Housing and Urban Development. The Department will not select a site until it “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 Department Project-Based VASH program is subject to all applicable requirements of the Department’s most current Administrative Plan, including the requirements detailed below. Current HUD guidance provides two methods for PBV proposal selections: (1) issue a request for proposals, or (2) select a proposal based on a previous competition under a federal, state, or local government housing assistance, community development, or supportive services program [24 CFR 983.51].

If the Department utilizes method 1, The Department will provide broad public notice of the opportunity to offer PBV proposals for consideration. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the request for PBV proposals must specify the submission deadline. Detailed application and selection information will be provided at the request of interested parties [24 CFR 983.51].

If the PHA utilizes method 2, the PHA will select an eligible proposal for housing assisted under a federal, state, or local government housing assistance, community development, 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 [24 CFR 983.51(b)].

The Department may 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.

TDHCA Policy

The Department will pursue vouchers when possible and if available, will pursue Option 2 for selection methods.

PBV SITE SELECTION

The Department will select sites according to guidance contained within 24 CFR 983.57. Any PBV proposal will only be considered by The Department if the proposed site is consistent with the goal of de-
concentrating poverty and expanding housing and economic opportunities. Any PBV proposal and associated project site must be consistent with 24 CFR 903 and this Administrative Plan. The Department will assess the viability of a PBV proposal/site selection according to:

- Owner experience and capability to build or rehabilitate housing as identified in the proposal;
- Extent to which the project furthers The Department’s goal of de-concentrating poverty and expanding housing and economic opportunities;
- The extent to which services are provided on-site or in the immediate area for occupants of the property.

**25 PERCENT CAP ON NUMBER OF PBV UNITS PER BUILDING**

Exceptions to the 25 percent cap will be granted only if the units are excepted units in a multifamily building specifically made available for elderly or disabled families or families (qualifying families) receiving supportive services, per guidelines contained within 24 CFR 983.56.

The Department staff will conduct annual on-site monitoring visits to assess and measure compliance with supportive services requirements.

**PBV WAIT LIST**

Applicants who will occupy units with PBV assistance must be selected from either the Department VASH (voucher) list, or the PBV (project-based voucher) list. The Department will work closely with the PBV owner to ensure applicants are placed on the appropriate wait list (or both wait lists).

**OWNER SELECTION (SCREENING) OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing conditions 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.

**ANNUAL PLAN AMENDMENT CERTIFICATION**

This amendment is in compliance with 24 CFR 903.7(r)(2)(ii) and 24 CFR 903.21. The inclusion of PBV in the Department’s Annual Plan does not alter the overall mission of the PHA, but may alter the applicant served.

**PROJECTED PBV UNITS**

The Department will limit PBV units to 75 per property location in areas where significant need is demonstrated.

**METHODOLOGY**

**TDHCA Policy**

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date.
To that figure, the PHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the PHA cannot support the cost of the proposed subsidy commitment, (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.
GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF  Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.

ACC  Annual Contributions Contract

BR   Bedroom

CDBG  Community Development Block Grant

CFR  Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.

ELI  Extremely low income

FHA  Federal Housing Administration

FMR  Fair Market Rent

FY   Fiscal Year

FYE  Fiscal Year End

GAO  Government Accounting Office

GFC  Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP).

GR   Gross Rent

HAP  Housing Assistance Payment

HCV  Housing Choice Voucher

HQS  Housing Quality Standards

HUD  The Department of Housing and Urban Development or its designee.

HURRA Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations

IG   Inspector General

IGR  Independent Group Residence

IPA  Independent Public Accountant

IRA  Individual Retirement Account

LO   Local Operator

MSA  Metropolitan Statistical Area established by the U.S. Census Bureau

PHA  Public Housing Agency

PMSA  A Primary Metropolitan Statistical Area established by the U.S. Census Bureau

PS   Payment Standard

QC   Quality Control

RC   Regional Coordinator

RFAT Request for Approval of Tenancy
B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

1937 ACT. The United States Housing Act of 1937 (42 U.S.C. §1437 et seq.)

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and a copy submitted to HUD as a supporting document to the PHA Plan.

ABSORPTION. In portability, 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.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADA. Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

ADJUSTED INCOME. Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the PHA for administration of the program.

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.

ADMISSION. The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

ANNUAL BUDGET AUTHORITY. The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program.
ANNUAL INCOME. The anticipated total Annual 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.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

APPLICANT. (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

"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.)

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BIFURCATE. 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 in tact.

BUDGET AUTHORITY. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

CERTIFICATE. A Certificate issued by the PHA under the Section 8 pre-merger certificate program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

CERTIFICATE PROGRAM. Pre-merger rental certificate program.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

COMMON SPACE. In shared housing: Space available for use by the assisted family and other occupants of the unit.

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, 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 Housing 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.)
COOPERATIVE. (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: See 24 CFR 982.619.

COVERED FAMILIES. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

DATING VIOLENCE. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

DEPARTMENT. Also referred to as the Texas Department of Housing and Community Affairs.

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

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 PERSON/FAMILY. A person or family 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 under federal disaster relief laws.

DOMESTIC VIOLENCE. Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

DOMICILE. The legal residence of the household head or spouse as determined in accordance with State and local law.

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

ECONOMIC SELF-SUFFICIENCY PROGRAM. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare,
financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

ELDERLY FAMILY. A family whose head, 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 HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family). A family is defined by the PHA in the administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose incomes do not exceed the higher of the federal poverty level or 30 percent of the area median income, as determined by HUD, with adjustments for smaller and larger families.

FAIR HOUSING ACT. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

FAIR MARKET RENT (FMR). The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the Federal Register.

FAMILY. (Also see Participant and Tenant) "Family" includes but is not limited to:

- A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
- An elderly family;
- A near-elderly family;
- A displaced family;
- The remaining member of a tenant family; and
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" can be further defined by the PHA).

**FAMILY OF VETERAN OR SERVICE PERSON.** A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

**FAMILY RENT TO OWNER.** In the voucher program, the portion of the rent to owner paid by the family.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM).** The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY SHARE.** The amount calculated by subtracting the housing assistance payment from the gross rent.

**FAMILY UNIT SIZE.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

**FMR/EXCEPTION RENT.** The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

**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).

**FUNDING INCREMENT.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**GROSS FAMILY CONTRIBUTION.** Changed to Total Tenant Payment.

**GROSS RENT.** The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

**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).

**HAP CONTRACT.** (See Housing Assistance Payments contract.)

**HEAD OF HOUSEHOLD.** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.
HOUSING AGENCY. 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 AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

A payment to the owner for rent to owner under the family's lease. An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN. (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING CHOICE VOUCHER PROGRAM (HCV). (See Section 8)

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD. The Department of Housing and Urban Development.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

IMMEDIATE FAMILY MEMBER. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood or marriage.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when 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.
**INDIAN.** Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State. **INDIAN HOUSING AUTHORITY (IHA).** A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

**INITIAL PHA.** In portability, the term refers to both:

A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

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.

**INTEREST REDUCTION SUBSIDIES.** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**JURISDICTION.** The area in which the PHA has authority under State and local law to administer the program.

**LANDLORD.** This term means 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.

**LARGE VERY LOW INCOME FAMILY.** Prior to the 1982 regulations, this meant a very low income family which included six or more minors. This term is no longer used.

**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. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member’s family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

**LEASE ADDENDUM.** For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

**LIVE-IN AIDE.** A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

**LOCAL PREFERENCE.** A preference used by the PHA to select among applicant families.

**LOCAL OPERATOR.** The Local Operator is a separate agency with which the Department contracts to assist with administration of the HCV Program on a local level.

**LOCAL OPERATOR REPRESENTATIVE.** The Local Operator representative works as an agent of the said agency to administer the Section 8 HCV program locally in the cities and/or areas covered under the Department’s HCV Program.
LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low income families.

MANUFACTURED HOME. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

MANUFACTURED HOME SPACE. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES. Those total 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 (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the 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.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.
NON-CITIZEN. A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OVER-FMR TENANCY (OFTO). In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT. (Also see “Family” and “Tenant”) A family that has been admitted to the PHA’s program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (First day of initial lease term).

PAYMENT STANDARD. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

PERSON WITH DISABILITIES. 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 an “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).

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

PORTABILITY. Renting a dwelling unit with Section 8 tenant-based assistance 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. Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

PROGRAM. The Section 8 tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

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). PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:
A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**REASONABLE RENT.** A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged 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. There are annual and interim recertifications.

**REGULAR TENANCY.** In the pre-merger certificate program: A tenancy other than an over-FMR tenancy.

**REMAINING MEMBER OF TENANT FAMILY.** Person left in assisted housing after other family members have left and become unassisted.

**RENT TO OWNER.** The total monthly rent payable to the owner under the lease for the unit. 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.

**RESIDENT ASSISTANT.** A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

**RESPONSIBLE ENTITY.** For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, 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 (42 U.S.C. 1437f).

SECURITY DEPOSIT. A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

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.

SINGLE PERSON. A person living alone or intending to live alone.

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 24 CFR 982, which 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 husband or wife of the head of the household.

STALKING. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; 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 that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
A Public Housing Project.

**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.

**Substandard Unit.** Substandard housing is defined by HUD for use as a federal preference.

**Suspension/Tolling.** Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. 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.

**Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** (Also see “Family” and “Participant”) The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

**Tenant Rent.** The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

**Total Tenant Payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

**Unit.** Residential space for the private use of a family.

**Unusual Expenses.** Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

**Utilities.** Utilities mean water, electricity, gas, other heating, and refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

**Utility Allowance.** If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract 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 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 healthy living environment.

**Utility Reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

**Utility Reimbursement Payment.** In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**Vacancy Loss Payments.** (For pre-merger certificate contracts effective prior to 10/2/95) 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 LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

VERY LOW INCOME FAMILY. A Lower-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 pre-merger certificate and voucher programs.

VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released there from under conditions other than dishonorable.

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 (rental voucher). A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

VOUCHER HOLDER. A family holding a voucher with an unexpired term (search time).

VOUCHER PROGRAM. The Section 8 Housing Choice Voucher program.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy that are waiting for subsidy to become available.

WAITING LIST ADMISSION. An admission from the PHA waiting list.

WELFARE ASSISTANCE. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (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 RENT. This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

WELFARE-TO-WORK (WTW) FAMILIES. Families 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).

C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN. A citizen or national of the United States.
EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS. The documents which must be submitted to evidence citizenship or eligible immigration status.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

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.

NONCITIZEN. A person who is neither a citizen nor national of the United States.

PHA. A housing authority who operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.