



*The mission of the Worcester Housing Authority is to enhance the Worcester community by creating and sustaining decent, safe, and affordable housing that champions stability and self-sufficiency for our residents.*

# Leased Housing Administrative Plan

## *For Section 8 Programs*

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# Introduction and Policy

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## 1.1 PURPOSE

The Worcester Housing Authority ("WHA") provides low-income housing to persons who qualify under the rules and regulations that govern eligibility for the Housing Choice Voucher Program (HCV), Project-Based Voucher Program (PBV), Family Self-Sufficiency Program (FSS), Family Unification Program (FUP), Moderate Rehabilitation Program, and Homeownership Program.

The purpose of this Administrative Plan is to set forth standards and criteria for the selection of applicants and for the administration of the various programs. This Plan is designed to ensure that all persons applying or participating in the programs are treated fairly, equitably and in compliance with applicable federal, state, and local laws and regulations.

## 1.2 STATUTORY AND REGULATORY COMPLIANCE

The WHA will comply with all federal and state statutes and regulations as applicable in its administration of the programs addressed by this Plan including, but not limited to, 24 CFR parts 1, 5, 8, 882, 982, 983, 984, 985 and 988, the Privacy Act, the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act ("ADA") of 1990, Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 as amended, and M.G.L. ch. 151B.

## 1.3 AUTHORIZATION FOR RELEASE OF INFORMATION AND RIGHT TO PRIVACY

All adult members of both applicant and participant households are required to sign Department of Housing and Urban Development ("HUD") Form 9886, Authorization for Release of Information and Privacy Act Notice. The Authorization for Release of Information and Privacy Act Notice states what information the WHA and HUD are authorized to obtain and how family information will be released.

The WHA will not release applicant or participant information unless there is a: (i) signed release of information request from the applicant or participant; (ii) lawful court order or through lawful civil or criminal discovery processes; (iii) a request for cooperation or for information from other governmental agencies or regulatory bodies; (iv) as authorized by HUD regulations; or (v) as otherwise authorized by law.

## 1.4 FAIR HOUSING

The WHA affirmatively furthers fair housing in the administration its programs. No person shall, on the grounds of race, color, sex, sexual orientation, gender identity, religion, national or ethnic origin (including Limited English Proficiency individuals), familial status, handicap or disability, age, ancestry, public assistance recipient, marital status, children, or veteran status be excluded from participation in, be denied the benefits of, or be otherwise subjected to, discrimination under the WHA's programs.

# Introduction and Policy

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To further its commitment to full compliance with applicable civil rights laws, the WHA will provide federal/state/local information to applicants/participants of the programs regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be available at the WHA's Admissions Office.

The WHA will assist any family that believes it has suffered illegal discrimination, including those that believe they are unable to find or lease a suitable unit with assistance under the programs due to discrimination, by providing copies of the appropriate housing discrimination forms. The WHA will also assist in completing the forms, if requested, and will provide the address of the Housing Discrimination Project, located at 57 Suffolk Street, Holyoke, MA, 01040, the Massachusetts Commission Against Discrimination, 436 Dwight Street, Suite 220, Springfield, MA, 01103 and the HUD Office of Fair Housing, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, MA 02202.

## **1.5 REASONABLE ACCOMMODATION**

The Worcester Housing Authority Reasonable Accommodations Policy is incorporated by reference into this Administrative Plan. The Reasonable Accommodations Policy may be found on the WHA's website, the WHA Admissions Office, or the WHA Leased Housing Office.

## **1.6 DOMESTIC VIOLENCE**

The WHA is concerned about the safety of its tenants, participants, and applicants and such concern extends to those who are victims of domestic violence, dating violence, sexual assault, or stalking. The Worcester Housing Authority Violence Against Women Act (VAWA) Policy is incorporated by reference into this Administrative Plan. The VAWA Policy may be found on the WHA's website, the WHA Admissions Office, or the WHA Leased Housing Office.

## **1.7 OTHER SERVICES TO PROMOTE ACCESSIBILITY TO PROGRAMS**

Any notice to a participant or applicant, who is known not to speak English, shall bear a notice in commonly spoken foreign languages of the importance that the notice be translated.

The WHA is committed to providing meaningful access to the WHA's programs and activities by persons with Limited English Proficiency ("LEP"). No LEP applicant or participant will be denied access to WHA's programs and activities because the individual does not speak English, or communicates in English on a limited basis.

If the WHA is notified of the need for an interpreter it will make all reasonable efforts to provide an interpreter within a reasonable time at no cost.

# Marketing and Outreach

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## 2.1 MARKETING AND OUTREACH

Marketing and outreach efforts are used to provide the local community with awareness of the WHA's programs. The WHA will conduct outreach to the community to create an awareness of the availability of its voucher programs and to maintain an adequate application pool, taking into consideration voucher availability and the anticipated vacancy of project-based units through turnover.

The WHA will provide informational materials and/or presentations to individuals, groups, social service agencies and others upon request. The WHA will seek to reach potential applicants by advertising in the Worcester Magazine and newspapers that serve minority populations and/or may use public service announcements to reach people who cannot or do not read newspapers. The Equal Housing Opportunity logo will be used in all advertisements.

## 2.2 EXPANDING HOUSING OPPORTUNITIES

The WHA encourages participation by owners of suitable units located outside areas of poverty or minority concentration. The WHA considers the following census tracts within the City of Worcester to be areas of low income population: 7304.01, 7311.01, 7311.02, 7312.03, 7312.04, 7313.00, 7314.00, 7315.00, 7316.00, 7317.00, 7318.00, 7319.00, 7320.01, 7320.02, 7322.02, 7323.02, 7324.00, 7325.00, 7326.00, 7327.00, 7328.02, 7329.01, 7329.02, 7330.00 (source 2014 HUD CPD MAPS). The WHA encourages such participation by outreaching to property owners by providing landlord trainings, mailings, and new owner forums to promote and educate owners on the programs. The WHA has a Property Owner Council (POC) made up of several active property owners in the City; large and small. The POC meets bi-annually to discuss outreach efforts and education of property owners. The WHA also will also provide guest speakers to landlord associations and owners groups upon request. The WHA encourages owners to post listings on [www.GoSection8.com](http://www.GoSection8.com).

The WHA informs participants about the availability and benefits of mobility opportunities. This is done by including the following information in the briefing booklet: City of Worcester Low Income Population map, information on Worcester Public School's performance, and information on portability and contact information for all Massachusetts housing authorities. Portability and the advantages of expanded housing opportunities, and moving to an area that does not have a high-poverty concentration are also discussed at the briefing. Provided at the briefing are apartment listings of owners willing to participate in the program, including handicapped accessible apartments, if known. In addition to specific apartment listings, information on [www.GoSection8.com](http://www.GoSection8.com) is provided. This website is a nationwide rental-listing service for the Section 8 housing market.

# Applications

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## 3.1 APPLICATIONS POLICY

The WHA shall receive and process applications in a fair and consistent manner. All persons who express a desire to participate in the programs shall be given an equal opportunity to apply for assistance whenever the waiting list(s) are open. The following describes the procedures by which the WHA accepts applications for the voucher programs, places applicants on the waiting list(s), and manages the waiting list(s).

## 3.2 APPLICATION PROCESS

The WHA utilizes the Section 8 Housing Choice Voucher Centralized Waiting List (“Centralized Waiting List”) administered by the Massachusetts Chapter of National Association of Housing and Redevelopment Officials (“MassNAHRO”) to accept and process preliminary applications and maintain the waiting list for the tenant-based housing choice voucher program.

Preliminary applications for the Centralized Waiting List are available at the WHA Admissions Department located at 40 Belmont Street, Worcester, MA 01605, at [www.worcester-housing.com](http://www.worcester-housing.com) and [www.section8listmass.org](http://www.section8listmass.org). Applications will be mailed upon request. The Centralized Waiting List will remain open indefinitely. Applications returned to the WHA shall be screened for completeness. The WHA shall enter the information from the completed preliminary application into the MassNAHRO Centralized Waiting List database. If an incomplete preliminary application is received, the WHA will make every reasonable effort to notify the applicant of the additional information required.

Preliminary applications for the Project-Based Voucher Program are available at the WHA Admissions Department located at 40 Belmont Street, Worcester, MA 01605 and at [www.worcester-housing.com](http://www.worcester-housing.com). Applications will be mailed upon request. Referral letters from specific agencies are required for certain Project-Based applications.

All applications received by the WHA shall be date and time-stamped at the time of receipt. An applicant does not have any right or entitlement to be listed on the WHA waiting list, to any particular position on the waiting list, or to admission to the programs. The preceding sentence does not affect or prejudice any right, independent of this rule, to bring a judicial action challenging a WHA violation of a constitutional or statutory requirement.

The WHA will provide applications in a format accessible to persons with disabilities upon request.

## 3.3 WAITING LIST MANAGEMENT

It is the responsibility of the applicant to apprise the WHA of any change of name, address, telephone number, email address, total family income or household composition while on the waiting list(s).

# Applications

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## 3.3.1 Centralized Waiting List

The Centralized Waiting List is open indefinitely. The Centralized Waiting List is updated and purged by MassNAHRO. The WHA has no responsibility in maintaining updating, or purging the Centralized Waiting List.

## 3.3.2 Project-Based Voucher Waiting List(s)

The WHA maintains waiting lists for the Project-Based Voucher Program. The WHA shall date and time stamp each application received and shall provide a receipt to the applicant, including an entity number.

a. Opening the Waiting Lists(s):

The WHA shall provide public notice in advance of opening a waiting list. The WHA will publish the notice in the Worcester Magazine (or an alternate publication in general circulation), in available minority media of general circulation, and to local organizations that serve low and moderate income families and the disability communities. The WHA will also post written notice in the lobby of the WHA Admissions Department and the WHA Management Offices.

b. Closing the Waiting List(s):

If the WHA determines that the existing waiting list contains an adequate pool of applicants, the WHA may stop accepting new applications. When a waiting list is closed the WHA will publish the notice in the Worcester Magazine (or an alternate publication in general circulation), in available minority media of general circulation, and to local organizations that serve low and moderate income families and the disability communities. The WHA will also post written notice in the lobby of the WHA Admissions Department and the WHA Management Offices.

c. Updating and Reclassification of the Waiting List(s):

The WHA will update all applications on its Project-Based waiting lists on an annual basis. The WHA will contact applicants in writing to confirm if they are still interested in participating in the program for which they applied. This mailing will be sent to the most recent address on file with the WHA. The WHA may also request that the applicant update information regarding address, family composition, income and claimed preferences to ensure the applicant's preference status remains the same. The WHA will request the applicants respond within the timeframe set forth in the letter. The letter shall indicate that failure to respond may result in the removal of the family from the waiting list. If the event the applicant does not respond within the timeframe and/or attend a scheduled appointment at the WHA, the application

# Applications

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will be removed from the waiting list. Due to documented, mitigating circumstances, an applicant may be reinstated to his/her former position within twelve (12) months of the cancellation date at the sole discretion of the WHA.

The WHA will grant a reasonable accommodation to an applicant with a disability who is removed from the list for failure to respond to the WHA's request for information or update *due to* the disability. The applicant shall be reinstated to his/her former position on the waiting list if the request is in writing and the WHA determines the requested accommodation is reasonable.

An applicant may withdraw his/her application at any time.

## 3.4 PREFERENCES

### 3.4.1 Preference Categories

The following describes each preference category and the documentation required when claiming such preference. For this section, the term applicant shall mean any member of the household listed on the preliminary application.

- a. Local Resident: A member who is listed on the application who lives, works, or will work in the city of Worcester. Documentation required: lease agreement, utility bill, pay stub, or letter from employer.
- b. Veteran: A member who is listed on the application who is a veteran with service connected disability; a family of a deceased veteran whose death was service-connected; or other veteran. Documentation required: DD214 for veteran and if veteran is deceased, a copy of the death certificate.
- c. Victim under the Violence Against Women Act "VAWA": A member who is listed on the application who is a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, or sexual orientation and can certify the incident has occurred recently or is of continuing nature and as a result of this, will be or has been displaced. Documentation required: statement from a service provider, an attorney, or medical professional whom the applicant has sought assistance relating to any of the above incidents or the effects of abuse. A record of a federal, state, tribal, territorial or local law enforcement agency, court, or administrative agency, or self-certification that meets the definition under VAWA.
- d. Rent Burdened 50% of Income: A member who can document that they are paying more than 50% of their monthly gross family adjusted income (adjustments for dependent allowance, medical expenses, etc.) toward monthly housing costs (rent and utilities). Documentation required: lease/rental agreement or three most recent months of rent receipts; utility (gas, oil, or



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electric) bills or printouts directly from the utility companies; and household income for all family member(s) residing in unit.

- e. **Disabled person:** A member who has a physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning, breathing and working; has a record of or has a history of such an impairment; or is regarded as having an impairment or the impairment is treated by the applicant as constituting such a limitation of one or more life activities.  
Documentation required: disability benefits, proof of residency at an institution or hospitalization for a disability, or letter from a health care professional, such as a health or service professional or a social worker.

### 3.4.2 Preference Ranking

The following describes the system the WHA employs to rank preferences. Each applicant is assigned a point total by combining the total points of each preference. The point values are as follows: Resident= 40 points, Veteran= 20 points, Emergency categories= 10 points.

Preferences	Emergency	Veteran	Resident	Total Points
Ranking Points	10	20	40	
<b>Ranking</b>				
1	10	20	40	70
2		20	40	60
3	10		40	50
4			40	40
5	10	20		30
6		20		20
7	10			10
8*				0

\* Standard Applicant: An applicant with no preference.

### 3.4.3 Super Priority Preference

The WHA will admit an applicant to the Section 8 program before all other applicants on the waiting list if:

- a. The applicant resides in WHA public housing, and;

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- The applicant family is being temporarily displaced due to WHA rehabilitation and modernization programs; or
  - The applicant or a member of the applicant's household is in imminent danger of life threatening injuries due to providing testimony or information regarding criminal activity to a local law enforcement agency; or
  - The applicant or a member of the applicant's household is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion which places them in imminent danger and that cannot be expeditiously remedied in any other way; or
  - The applicant or a member of the applicant's household has been or is currently a victim of domestic violence, dating violence, stalking, or sexual assault, and has a reasonable belief of risk of imminent harm if he or she remains in the current unit or if they are the victim of sexual assault that occurred on the premises within the ninety (90) calendar day period proceeding a request for an emergency transfer and an internal emergency transfer is not immediately available (in accordance with §6.4.1 of the Worcester Housing Authority Violence Against Women Act (VAWA) Policy, or
  - The WHA cannot approve the applicant's request for Reasonable Accommodation at any of the WHA's public housing sites because the request would be unreasonable, an undue financial burden, or a fundamental alteration of the program and the applicant's request for Reasonable Accommodation could be resolved by being assisted under the HCVP.
  - The Applicant is either under-housed or over-housed, and there isn't such unit in the public housing stock.
- b. The applicant is a participant in the WHA's Section 8 Moderate Rehabilitation Program or Project-Based Program, and;
- The applicant or a member of the applicant's household is in imminent danger of the life threatening injuries due to providing testimony or information regarding criminal activity to a local law enforcement agency; or
  - The applicant or a member of the applicant's household is a victim of physical harassment, extreme or repeated vandalism to personal

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property and/or extreme and /or repeated verbal harassment, intimidation or coercion which places them in imminent danger; or

- The applicant or a member of the applicant's household has been or is currently a victim of domestic violence, dating violence, stalking, or sexual assault, and has a reasonable belief of risk of imminent harm if he or she remains in the current unit or if they are the victim of sexual assault that occurred on the premises within the ninety (90) calendar day period proceeding a request for an emergency transfer and an internal emergency transfer is not immediately available (in accordance with §6.4.2 of the Worcester Housing Authority Violence Against Women Act (VAWA) Policy, or; or
  - The owner and/or the WHA cannot approve the applicant's request for Reasonable Accommodation at any of the WHA's Section 8 Moderate Rehabilitation sites because the request would be unreasonable, an undue financial burden for the Owner, or a fundamental alteration of the program, and the applicant's request for Reasonable Accommodation could be resolved by being assisted under the HCVP.
  - The applicant is either under-housed or over-housed, and there isn't such unit in the moderate rehabilitation housing stock.
- c. The applicant is a family member of a current WHA Section 8 HCVP, PBV or Moderate Rehabilitation Program, and;
- is currently a victim of domestic violence, stalking or sexual assault within the same household as the perpetrator, and has a reasonable belief of risk of imminent harm if he or she remains in the current unit, and the subsidy is still attached to the current unit with the perpetrator.

d. Verification Requirements:

Applicants will be asked to provide reliable documentation to show that their family qualifies for Super-Priority. Such verification may include the following:

- A letter(s) from a Qualified Healthcare Provider describing an applicant's physical or mental condition and specifying housing conditions required because of the condition;
- For Reasonable Accommodation requests, reliable documentation from a Qualified Healthcare Provider or professional non-medical service agency, whose function it is to provide services to the disabled. documentation should verify that the applicant or a member of his/her

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Household is disabled under the applicable definitions in Federal and State law and describe the limitation attributed to the disability. Documentation must also describe how the accommodation being requested will overcome or alleviate those limitations;

- Police reports;
- Civil Rights incident reports;
- Copies of restraining orders;
- For victims of domestic violence, dating violence, sexual assault, or stalking, such applicants shall provide documentation in accordance with the Worcester Housing Authority Violence Against Women Act (VAWA) Policy;
- Any other documentation that provides the WHA with evidence of Super Priority criteria.

Program eligibility requirements shall not be waived under this section. The issuance of a voucher under this section is subject to the availability of such vouchers. If vouchers are not immediately available, applicants under this section will be placed on an Super-Priority wait list in chronological order, regardless of the reason for placement on said list.

## **3.4.4 Disputing Preference**

If an applicant disputes their preference category and/or ranking, the applicant may request an Informal Conference and if necessary an Informal Hearing. See Section 4.9.

## **3.5 SELECTION FROM THE WAITING LIST(S)**

When the WHA anticipates that a voucher will become available, it will select applicants from the waiting list(s). At the discretion of the Executive Director, the WHA will employ one of the following methods to select applicants from the waiting list(s) for further screening and determination of eligibility. Once an applicant has been selected from the waiting list, they enter the Full Application Stage.

### **3.5.1 Date and Time Selection**

Applicants will be selected from the waiting list(s) in accordance to the date and time stamp on the preliminary application. The only preferences considered when the WHA utilizes this method are the Resident and Veteran preferences (ranking as described in §3.4.2).

### **3.5.2 Preference Selection**

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Applicants will be selected from the waiting list(s) based on their total preference points and ranking number. Applicants with equal ranking numbers will be selected in accordance with the date and time stamp.

Example: Applicant A has a ranking of 2 (60 points) and submitted their application on 3/29/2014. Applicant B has a ranking of 2 (60 points) and submitted their application on 7/25/2013. Applicant C has a ranking of 5 (30 points) and submitted their application on 2/2/2012. The order of selection for these three applicants would be Applicant B, Applicant A, then Applicant C.

### **3.5.3 Income Targeting**

The WHA shall ensure that at least 75% of new admissions to the tenant-based and project-based programs have incomes that do not exceed 30% of the area median income as published by HUD, with adjustments for smaller and larger families. To ensure this requirement is met, the WHA shall monitor the incomes and newly admitted families and the incomes of the families on the waiting list(s) on an annual basis. If it appears that the requirement to provide assistance to extremely low-income families will not be met, the WHA may skip over families with higher incomes on the waiting list(s) to reach applicants of extremely low income. If there are not enough extremely low-income families on the waiting list, the WHA may conduct outreach in a non-discriminatory manner to attract extremely low-income families meet the statutory requirement.

## **3.6 APPLICANT FAMILY BREAK-UP**

A Family Break-Up occurs when a Head, Co-Head, or other adult family member(s) no longer reside together and there is a dispute as to who will retain the Application. By way of example and not limitation, a Family Break-Up may occur when parties divorce, separate or there is court-issued protective order. When a family breaks up into two otherwise eligible families, only one of the new families shall retain the original application date. In most cases, the WHA has discretion to determine which family member(s) will retain the original application date. It is the intent of this policy to provide guidance as to which new family will retain the original application date.

### **3.6.1 Notice to the WHA**

In the case that a Family Break-Up occurs, or will imminently occur, between the time of the application and issuance of the voucher (while a family is on the waiting list), notification of the Break-Up shall be made to the WHA Admissions Department. Notification shall be made to the WHA as soon as reasonably possible. Together with notification, the WHA must receive written documentation of a Family Break-Up. Written documentation may include but is not limited to signed statement(s) by adult family member(s), court order, documentation by a social service professional or clinician. The WHA may request additional documentation regarding the Family Break- Up.

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## 3.6.2 Agreement Amongst Adult Family Members

If all adult family members expressly agree as to which new family shall retain the original application date, provided the new family retaining the original application date remains eligible for the program. In the case of such agreement, all adult family members must certify this agreement to the WHA in writing.

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## 3.6.3 Court Determination

If a court determines which new family will retain the original application date by means of a divorce, separation under a settlement or a judicial decree, the WHA shall be bound by the court's decision.

## 3.6.4 WHA Determination

In the absence of agreement amongst all adult family members or a court determination, the WHA will determine which family member(s) will continue to receive housing assistance. The WHA will evaluate each instance of Family Break-Up on a case-by-case basis and will consider the individual circumstances of the family members.

If a Family Break-Up occurs *because of* domestic violence, dating violence, sexual assault, or stalking as provided in 24 C.F.R. part 5, subpart L, the WHA will ensure the victim retains the housing assistance.

In all other cases, the WHA will consider the following factors (if applicable) in determining which family member(s) will retain the housing assistance:

- a. Whether assistance should remain with the family member(s) remaining in the original assisted unit;
- b. The interests of minor children;
- c. The interests of ill, elderly, or disabled family member(s);
- d. Whether family member(s) are *forced to leave* the unit as a result of *actual or threatened* domestic violence, dating violence, sexual assault, or stalking;
- e. Whether *any* family member(s) are receiving *protection* as victims of domestic violence, dating violence, or sexual assault, or stalking as provide in 24 C.F.R. part 5, subpart L, *and* whether the abuser is still in the household.
- f. The possible risks to family member(s) due to criminal activity;
- g. The recommendations of social service professionals and/or clinicians; and
- h. Other factors deemed relevant to the individual circumstances of the family member(s) by the WHA.

# Eligibility

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## 4.1 ELIGIBILITY GENERALLY

Once an applicant has been selected from the waiting list, they enter the Full Application Stage. It is at this point the WHA conducts further screening and makes a determination of eligibility. The following describes HUD and the WHA's criteria for admission and denial of admission to the programs.

## 4.2 ELIGIBILITY FACTORS

To be eligible an applicant must:

- a. Be a "family," as defined below, which must have a head of household or spouse who is at least 18 years of age or an emancipated minor;
- b. Be within the appropriate income limits as established annually by HUD;
- c. Furnish verification of Social Security Numbers for all family members, if they have been assigned a Social Security Number;
- d. Be a United States Citizen or Eligible Non-Citizen;
- e. Not owe money to the WHA or other housing authorities;
- f. Complete the application process, and provide truthful and verifiable information about income and personal circumstances; and
- g. Meet the WHA's criminal history standards.

## 4.3 DEFINITIONS

### 4.3.1 Family

A family includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- a. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- b. A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);



# Eligibility

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- An elderly family;
- A near-elderly family;
- A disabled family;
- A displaced family; and
- The remaining member of a tenant family.

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

To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the WHA will require applicants to demonstrate that the individuals have lived together previously, or certify that the individual's income and other resources will be available to meet the needs of the family.

## **4.3.2 Household**

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

## **4.3.3 Head of Household**

The Head of Household is the adult member of the family who is the head of the household for purposes of determining income eligibility and rent. The family may designate any qualified 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.

## **4.3.4 Spouse**

The spouse is the marriage partner of the head of household. This term does not include friends, roommates, or significant others who are not marriage partners.

## **4.3.5 Co-head of Household**

The co-head is an individual in the household that is equally responsible with the head of household for ensuring the family fulfills program responsibilities, but is not a spouse. A family may have a spouse, or co-head but not both. A family may only have one co-head. An emancipated minor may be designated as a co-head.

# Eligibility

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## 4.3.6 Other Adult

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

## 4.3.7 Dependent

A dependent is a family member who is under 18 years of age, or is a person with a disability, or is a full-time student. The following can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in-aides.

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 more than 50 percent of the time. When more than one applicant or participant family is claiming the same dependent(s) 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 the dependent(s), the WHA will make the determination based upon available documents such as court orders or an IRS return showing which family has claimed the dependent(s) for income tax purposes.

Children who are temporarily absent from the home due to placement in foster care shall be considered part of the family.

Children added to the household will only be considered a family member if they are born to or adopted by an individual that is already a member of the family. In the instance where a family member receives custody of a child, verification of physical custody must be documented through a court order (temporary or permanent).

## 4.3.8 Foster Adults and Children

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

Foster children are children that are in the legal guardianship of a State, county, or private adoption or foster care agency, yet are cared for by foster parents in their own homes, under some type of short-term or long-term foster care arrangement with the custodial agency.

Foster adults and children are considered household members, but not family members. The income of foster children and adults is not counted in the family annual income and foster children and adults do not qualify for a dependent deduction. However, the income of foster children and adults must be reported and verified. Child care expenses for foster children are deductible to the same extent that child care expenses for other children are deductible.

# Eligibility

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Foster children or adults may be allowed to reside in a unit, with documented landlord permission, if their presence would not result in a violation of HQS standards. An application to add the foster child or adult must be completed and approved by the WHA. The WHA must receive verification of the foster child or adult from the appropriate agency. If a foster child or adult moves from the unit, the WHA must be notified within ten days.

## **4.3.9 Full-Time Student**

A full-time student is a person who is attending school or vocational training on a full-time basis. The school or vocational training center defines “full-time”.

## **4.3.10 Live-in-Aide**

A live-in-aide is a person who resides with a person or persons who are elderly, near elderly, and/or have a disability. The live-in-aide must be essential to the care and well-being of the person(s), must not be obligated for support of the person(s), and would not be living with the person(s) except to provide necessary supportive services. A live-in-aide will be approved by the WHA, if needed as a reasonable accommodation for a person with a disability.

At any time, the WHA may refuse to approve a particular person as a live-in-aide, or may withdraw such approval if the person:

- a. Commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- b. Commits drug-related criminal activity or violent criminal activity; or
- c. Currently owes rent or other amounts to the WHA or to another housing authority in connection with Section 8 or public housing assistance under the U.S. Housing Act of 1937.

The income of live-in-aides is not counted in the family annual income. However, the income of live-in-aides must be reported and verified.

## **4.3.11 Guest**

A guest is a person temporarily staying in the assisted unit. A guest may remain in the assisted unit no longer than twenty-one (21) nights in any twelve (12) month period (or days if the guest sleeps in the unit during the day). Any guest that remains in the unit longer than this time will be considered an unauthorized occupant.

# Eligibility

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## **4.3.12 Elderly Family**

An elderly family is one in which the head, spouse, co-head, or sole member is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more live-in-aides. An elderly family may include children.

## **4.3.13 Near-Elderly Family**

A near-elderly family means a family whose head, spouse, co-head, or sole member is a person who is at least 50 years of age but below the age of 62. It may include 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.

## **4.3.14 Disabled Family**

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

## **4.3.15 Displaced Family**

A displaced family is a family in which each member or sole member is a person displaced by governmental action; or a person whose dwelling has been extensively damaged or destroyed as the result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

## **4.4 ELIGIBILITY CRITERIA**

### **4.4.1 Social Security Number Requirements**

All applicants and participants must disclose complete and accurate social security number for each member of the household, including foster children, foster adults, and live-in-aides. The following are forms of acceptable documentation of social security number: an original social security card, an original document issued by the Social Security Administration that contains the name and social security number of the individual, or an original document showing the individual's name and social security number, issued by a federal, state, or local government agency. The social security number will be validated through HUD's EIV system. The following are exempt from the social security number requirement:

- a. Individuals who do not contend eligible immigration status;
- b. Current program participants who had not previously disclosed a social security number, and who were at least 62 years old on January 31, 2010; and

# Eligibility

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- c. Household members who have already provided a valid social security number prior to January 31, 2010.

When adding a household member under the age of six (6) and the child has not been assigned a social security number, the participant must disclose and verify the child's social security number within ninety (90) days of the child's addition to the household. If the family is unable to disclose and provide evidence of the social security number within the 90-day period, the WHA will grant an additional ninety (90) days to comply only if the WHA is able to determine the family was unable to comply with the requirement due to circumstances that could not have reasonably been foreseen and were outside of the control of the family.

## **4.4.2 Restriction on Assistance to Noncitizens**

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

Citizens of the Republic of the Marshall Islands, Federated States of Micronesia and the Republic of Palau are eligible for housing assistance.

When a family consists of those with citizenship or eligible immigration status, and those without eligible immigration status, assistance to the family will be prorated. Such families are known as "mixed families".

The WHA requires the following declarations and/or documentation regarding citizenship or eligible immigration status:

- a. U.S. Citizens and Nationals:

A written declaration, signed under the penalty of perjury, that claims their status. All adults must sign this declaration. For each child, the declaration must be signed by an adult member of the family responsible for the child. Proof of status by means of birth certificate, military ID, military DD 214, baptismal certificate or passport is also required.

- b. Eligible Noncitizens:

A written declaration, signed under the penalty of perjury, that claims their status. All adults must sign this declaration. For each child, the declaration must be signed by an adult member of the family responsible for the child. Adults 62 or older must also provide proof of age. All other eligible noncitizens must also provide documentation designated by the United States

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Citizenship and Immigration Services (“USCIS”) as acceptable evidence of immigration status and a Verification Consent Form.

c. Ineligible Noncitizens:

Family members who elect not to contend citizenship shall be regarded as lacking citizenship or eligible immigration status and will not qualify for assistance. Such family members must be listed on a statement of non-eligible members signed by the head of household.

Applicants must submit evidence of eligible status no later than the time of the verification of other eligibility factors. If the individual requires additional time to obtain the documentation, the WHA may allow an extension of up to thirty (30) days at the discretion of the WHA. Individuals that join an existing household must submit evidence of immigration status as the next interim or regular reexamination, whichever comes first.

The WHA shall conduct primary verification immigration status by utilizing the USCIS System Alien Verification for Entitlements (SAVE) program. If the SAVE system does not verify eligible immigration status, the WHA shall request secondary verification within ten (10) days of receiving the results of the primary verification. Secondary verification is initiated by the WHA by forwarding photocopies of the original USCIS documents required for the declared immigration status, attached to the USCIS document request form G-845.

Families with no member who is a citizen, national, or eligible immigrants are ineligible families. However, the WHA will not deny, delay, or reduce assistance while verification of eligibility is pending, except to the extent the family has caused a delayed the verification of eligibility.

If verification does not establish that the individual or at least one family member is eligible, the WHA must deny assistance. Assistance must be denied when:

- a. Declaration of citizenship or eligible immigration status is not submitted by the specified deadline or any extension;
- b. Required documentation is submitted but USCIS primary and secondary verification does not verify immigration status and the family does not pursue an USCIS or WHA appeal; or
- c. Required documentation is submitted but USCIS primary and secondary verification does not verify immigration status, and an USCIS or WHA appeal is pursued but a decision is rendered against the family.

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## 4.4.3 Income Limits

Persons meeting WHA income qualifications are those whose annual income at the time of admission, does not exceed the income limits for occupancy as established annually by HUD. Income limits are established by family size. These income limits do not apply to families who are continuously assisted under the 1937 Housing Act.

## 4.4.4 Consent to Release of Information

All adult family members must sign form HUD-9886, Authorization for the Release of Information/Privacy Act notice and any other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. If any member of the family fails to sign and submit such consent forms, the WHA must deny admission to the program for an applicant or terminate program assistance for a participant.

## 4.4.5 Students Enrolled in Institutions of Higher Education

Students who are enrolled at an institution of higher education; are under the age of 24; are veterans; are not married; do not have a dependent child; and are not persons with disabilities who were receiving assistance under the Housing Choice Voucher program as of November 30, 2005 must meet additional income eligibility criteria. The income of the student together with the income of the student's parents is used to determine income eligibility. However, if a student meeting these criteria is determined to be independent from his or her parents, the WHA will not consider the income the student's parents when determining eligibility. In making a determination of whether a student is independent from his or her parents, the WHA will consider the following factors:

- a. The individual is 24 years of age or older by December 31 of the award year;
- b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
- c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- d. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
- e. The individual is a graduate or professional student;
- f. The individual is a married individual;

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- g. The individual has legal dependents other than a spouse;
- h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by:
  - A local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
  - The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
  - A financial aid administrator; or
- i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

The WHA will verify a student's independence from his or her parents to determine that the student's parents' income is not relevant for determining the student's eligibility for assistance by doing all of the following:

- a. Reviewing and verifying previous address information to determine evidence of a separate household or verifying the student meets the U.S. Department of Education's definition of "independent student";
- b. Reviewing a student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of "independent student"; and
- c. Verifying income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (Except if the student meets the Department of Education's definition of "independent student" in paragraphs (b), (c) or (h) above).



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## 4.5 ELIGIBILITY INTERVIEW

Once an applicant enters the Full Application Stage the WHA will send written notice to the applicant their name has been selected from the waiting list. This notice provides a date and time for an eligibility interview. The purpose of the interview is for the WHA to review the application with the applicant, spot missing information, and clarify any unclear answers to make a determination of final eligibility. Together with this notice the WHA sends the applicant forms and requests for documentation.

The applicant must attend the interview and must provide all completed forms and documentation to the WHA within ten (10) days of the interview. If an applicant fails to attend the interview or provide all completed forms and documentation the application will be cancelled. If the applicant was selected from the waiting list based on a preference selection and the applicant is not able to provide documentation to support the preference, the applicant will be provided with the MassNAHRO Centralized Wait List Update Form to update their preference.

Once all completed forms and verification documents are submitted, the WHA will proceed with verification and make a determination of final eligibility.

## 4.6 VERIFICATION

The WHA shall verify all factors affecting eligibility and will maintain documentation relating to the third party verification in the applicant file. In those instances when third party verification is not available, the WHA shall document the reasons for the failure to secure third party verification.

## 4.7 DENIAL OF ASSISTANCE

An applicant family that does not meet the eligibility factors and criteria must be denied assistance. Denial of assistance may include any of the following: denying listing on a 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 or provide portability.

### 4.7.1 Mandatory Denial of Assistance

The WHA must deny assistance to an applicant family for the following reasons:

- a. If the family does not meet the social security number disclosure, documentation and certification requirements;
- b. If the family does not supply evidence of citizenship and eligible immigration status is not submitted or if such evidence was submitted by INS primary and secondary verification does not verify eligible immigration status of a family member;
- c. If the family does not meet income eligibility requirements;

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- d. If any member of the family fails to sign consent forms;
- e. If any family member fails to meet the eligibility requirements concerning students enrolled at an institution of higher education;
- f. If any household member has been evicted from federally-assisted housing within the past three years for drug-related criminal activity (*drug* shall mean a controlled substance as defined in section 102 of the Controlled Substances Act and *drug-related criminal activity* shall mean 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). However, the WHA may admit the family if the WHA determines the evicted household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program or the circumstances for leading to eviction no longer exist.
- g. If any household member is currently engaging in illegal use of a drug, or the WHA has reasonable cause to believe that a household member's illegal use or pattern of use of a drug may threaten the health, safety, or right to peaceful enjoyment of other residents;
- h. If any household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally-assisted housing;
- i. If any household member is subject to a lifetime registration requirement under a state sex offender registration program; or
- j. If the WHA has reasonable cause to believe that any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of other residents.

## 4.7.2 Discretionary Denial of Assistance

The WHA may deny assistance to an applicant family for the following reasons:

- a. If any member of the household is currently engaged in or has engaged in, during a reasonable time\* before admission one or more of the following behaviors:
  - Drug-related criminal activity;
  - Violent criminal activity;

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- Criminal activity that may threaten the health, safety or right to peaceful enjoyment by other residents or persons residing in the immediate vicinity; or
- Criminal activity that may threaten the health or safety of the owner, property management staff or persons performing work on behalf of the WHA.

\* “Reasonable time” will be based upon the individual circumstances of the offense. The more serious the offense, the longer the period for which someone will be denied assistance;

- b. If the family violates any family obligation under 24 CFR 982.551;
- c. If a member of the family has been evicted from federally-assisted housing in the last five years;
- d. If any public housing authority has ever terminated assistance under the program for any member of the family;
- e. If any family member commits fraud, bribery, or another corrupt or criminal act regarding any federal housing program;
- f. If the family currently owes rent or other amounts to the WHA or to another public housing authority in connection with the Section 8 or public housing programs;
- g. If the family has not reimbursed any public housing authority for amounts paid to an owner under a HAP contract for rent, damage to a unit or other amounts owed by the family under the lease;
- h. If the family breaches an agreement with the WHA to pay amounts owed to the WHA, or amounts paid to an owner by the WHA;
- i. If the family was a FSS participant and failed to comply, without good cause, with the FSS contract of participation;
- j. If the family has engaged in or threatened abusive or violent behavior towards WHA personnel; or
- k. If a welfare-to-work family failed, willfully and persistently, to fulfill its obligations under the Section 8 welfare-to-work voucher program.

When determining whether to deny assistance to a family for any of the reasons listed under this section, the WHA will consider all relevant circumstances.

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## **4.7.3 Denial of Assistance Under the VASH Program**

For all applicants under the VASH program, the WHA may only deny eligibility to those determined income ineligible or lifetime sex-offender registrants. This applies to all family members, not just the veteran.

## **4.8 NOTICE OF ELIGIBILITY OR DENIAL**

If the family is eligible for assistance, the WHA will notify the family when it extends the invitation to attend the briefing as discussed in Section 5.

If the WHA determines that a family is not eligible for the program denial the family will be promptly notified by mail.

### **4.8.1 Denial Based Upon Ineligible Families**

If an applicant is determined ineligible because no member is a citizen, nation, or eligible immigrant, the WHA shall mail written notice of the determination to the applicant at the applicant's last known address. The notice shall advise the family of the brief reason(s) for denial. The notice shall also advise the family they have a right to request an appeal to the USCIS of the secondary verification of status and to submit additional documentation or a written explanation in support of appeal. The notice shall also inform the family they have a right to request an informal hearing with the WHA upon completion of or in lieu of the USCIS appeal. Assistance shall not be delayed until conclusion of the USCIS appeal, but may be delayed during the pendency of the informal hearing process. The informal hearing is described in Section 4.8.2 below.

### **4.8.2 Denial Based Upon Criminal Activity as Shown by a Criminal Record**

WHA's Criminal Offender Record Information Policy ("CORI Policy") is incorporated by reference into this Administrative Plan. The CORI Policy may be found on the WHA's website or the WHA Admissions Office.

## **4.9 REVIEW OF DENIAL OF ELIGIBILITY**

### **4.9.1 Pre-Denial Applicant Conference**

If the WHA is inclined to make an adverse decision relevant to an applicant's eligibility, preference category, and/or ranking, the WHA shall mail written notice that it is inclined to make such an adverse decision to the applicant at the applicant's last known address. This notice shall set forth the reason(s) that the WHA is inclined to make such an adverse decision and shall apprise the applicant that they may request a pre-denial Applicant Conference. See also, § 4.8.2.

# Eligibility

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The applicant must request the Applicant Conference in writing to the Director of Admissions within ten (10) days of the notice that the WHA is inclined to make an adverse decision. If no request for Applicant Conference is received, the WHA shall send the applicant a notice of denial. The purpose of the Applicant Conference is to enable the applicant to discuss with the WHA the reasons underlying the potential adverse determination and to permit consideration of all pertinent information and mitigating circumstances prior to a denial of eligibility, suitability and/or priority or preference status.

Promptly after receipt of a request for an Applicant Conference, the WHA shall notify the applicant of a time, date and place for the Applicant Conference. Prior to the Applicant Conference, the applicant or their representative shall have the right to inspect the applicant's file. The WHA shall make reasonable arrangements for photocopying documentation requested from the file, provided it has at least forty-eight hours advanced notice.

The Director of Admission or their designee shall conduct the Applicant Conference. As soon as reasonably possible after the close of the Applicant Conference, the WHA shall notify the applicant in writing whether the WHA is no longer inclined to make an adverse decision or if the WHA has made an adverse decision relative to the applicant's eligibility, suitability and/or preference status. The decision shall be mailed to the applicant and the applicant's representative, if any, at their last known addresses.

## **4.9.2 Informal Hearing (also known as Informal Review)**

If after the Applicant Conference, the WHA sends the applicant a notice of denial of assistance to the applicant or the preference category/ranking remains the same after the Applicant Conference, the applicant has the right to request an Informal Hearing. This notice shall contain a brief statement of the reason(s) for the WHA's decision. This notice informs the applicant that they may request an Informal Hearing of the decision and describes how the applicant can obtain the Informal Hearing. The applicant must request the Informal Hearing in writing to the Director of Admissions within twenty (20) days of the notice of denial of assistance. If no request for Informal Hearing is received, the applicant shall be denied assistance and removed from the waiting list or their preference category/ranking shall remain the same as previously determined by the WHA.

Promptly after receipt of a request for Informal Hearing, the WHA shall notify the applicant of a time, date and place for the Informal Hearing. Prior to the Informal Hearing, the applicant or their representative shall have the right to inspect the applicant's file. The WHA shall make reasonable arrangements for photocopying documentation requested from the file, provided it has at least forty-eight hours advanced notice.

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The Informal Hearing shall be conducted by a Hearing Officer, who is a person other than the person who made or approved the decision under review or be a subordinate of that person. The procedure of the Informal Hearing shall be informal. At their own expense, the applicant is entitled to representation by a lawyer or other spokesperson. At the Informal Hearing, the applicant (or applicant's representative) and the WHA may present evidence and question any witnesses. Upon request, the WHA may give the applicant additional time to secure documentation or information.

As soon as reasonably possible after the close of the Informal Hearing, the WHA shall notify the applicant in writing of its final decision, including a brief statement of the reasons for the final decision. The decision shall be mailed to the applicant and the applicant's representative, if any, at their last known addresses.

# Voucher Issuance, Briefing, and Housing Search

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## 5.1 VOUCHER ISSUANCE

The voucher issued to the family is a contract between the WHA and the family. The voucher authorizes the family to search for housing. However, the issuance of a voucher is not admission to the program. An applicant does not become an official participant until the effective date of the first HAP contract.

When funding is available, the WHA will issue vouchers to applicants deemed eligible. The number of vouchers issued must ensure the WHA stays as close as possible to 100 percent lease-up. The WHA performs periodic reviews to determine whether applications can be processed and the number of vouchers that can be issued.

If the WHA finds it is over-leased, it may recall outstanding vouchers and freeze them until funds are available. Further, the WHA may adjust future issuance of vouchers in order not to exceed the ACC budget limitations for the fiscal year.

If the WHA recalls and freezes outstanding vouchers, the applicants will be re-determined for eligibility prior to reissuance of a voucher.

The WHA may withdraw a voucher at any time if the WHA finds that the family violated any of the family obligations as listed in 24 C.F.R. § 982.551.

## 5.2 BRIEFING

Once the WHA has selected a family to participate in the programs, the family will be invited to a briefing. The invitation will be in the form of a mailed notice with a date and time of the scheduled briefing to the last address on the file with the WHA. The WHA may brief a family individually, or may brief multiple families at one time. The head of household must attend the briefing and all other family members are encouraged to attend. Briefings generally occur in the Community Room at 40 Belmont Street, Worcester, MA. This location is accessible to persons with disabilities. The WHA may elect to hold briefings at other locations.

The briefing shall cover the following topics: a description of how the program works, family and owner responsibilities, where a family may lease a unit (including renting a unit outside the jurisdiction of the WHA), any information on selecting a unit provided by HUD, how to lease a unit, WHA procedures, an explanation of portability, the advantages of areas that do not have a high concentration of low-income families.

At the briefing the WHA shall provide the family with a briefing packet which includes the information required by 24 C.F.R. § 982.301(b).

Briefings will be conducted primarily in English. Participants are encouraged to bring an interpreter. If the WHA is notified of the need for an interpreter it will make all reasonable efforts to provide an interpreter within a reasonable time at no cost. Such requests for an

# Voucher Issuance, Briefing, and Housing Search

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interpreter may result in the rescheduling of the briefing. The WHA will conduct alternative briefings if required for reasonable accommodation.

At the briefing, the family will be issued a voucher. However, the WHA will not issue a voucher to a family unless the head of household has attended the briefing and signed the voucher. The briefings must be attended in person by the head of household. Exceptions may be granted through the reasonable accommodation process. Applicants who provide prior written notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings, without prior notification and approval of the WHA may be denied admission.

The voucher contains the following items: the date of the voucher and its expiration date; specification of unit size for which the family qualifies (family unit size is determined by applying the WHA's subsidy standards); a description of the program and the procedures for WHA approval of a unit selected by the family; a list of the family obligations; and the line where the family signs and dates the voucher.

## 5.3 VOUCHER TERM

### 5.3.1 Initial Voucher Term

The WHA has set an initial voucher term of 120 days. This is the amount of time a family has to find approvable housing and submit a Request for Tenancy Approval. Vouchers will expire 120 days from the date of issuance unless the voucher is tolled or the WHA issues a written extension. The expiration date is stated on the voucher.

### 5.3.2 Extensions of Voucher Term

At the sole discretion of the WHA, the WHA may approve one thirty (30) day extension (for a total voucher term of 150 days). The family must request such extension, in writing, prior to the initial expiration of the voucher. The following is a non-exclusive list of reasons the WHA may approve such an extension:

- a. The family was unable to find suitable housing within the initial voucher term. The WHA will only approve extensions under this category if the family can show through documentation that the family made a good-faith effort to find suitable housing during the initial term;
- b. The family experienced a severe illness or extended hospitalization during the initial voucher term. The WHA will only approve extensions under this category if the family can show through documentation that they experienced a severe illness or were hospitalized for an extended length of time during the initial term; or
- c. The family was unable to actively search for housing due to circumstances beyond their control. The WHA will only approve extensions under this



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category if the family can show through documentation the circumstances that prevented them from actively searching for housing.

At the sole discretion of the WHA, the WHA may approve a second thirty (30) day extension (for a total voucher term of 180 days). The family must request such extension, in writing, prior to the expiration of the extension of the voucher. Such second extensions are only granted if the family can show through documentation that extreme circumstances, beyond their control, affected the family's ability to find suitable housing.

If a family requires and requests an extension as a reasonable accommodation, the WHA will extend the voucher term up to the term reasonably required for that purpose.

The policy in this paragraph is intended specifically when the Head of Household is being deployed and is either the sole or only adult member of the household. If a family has been issued a voucher, and the Head of Household receives notice that they will be deployed prior to their leasing an apartment, their voucher will be suspended indefinitely until they return. Upon their return, the WHA will reissue a voucher in accordance with Section 5.3.1.

## 5.3.3 Voucher Tolling

The voucher term will toll (be suspended) from the time the family submits a Request for Tenancy Approval (see below) until the time the WHA approves or denies the request or the Request expires. Example:

- a. Voucher issued on January 1 and expires on May 1
- b. Request for Tenancy submitted to the WHA on February 15
- c. WHA denies the Request for Tenancy on February 22
- d. Tolling time is 7 days
- e. New voucher expiration is May 8

No voucher shall be tolled for a period greater than sixty (60) days. If the tolling time exceeds the number of search days remaining on the voucher at the time of the RFTA submission, the voucher holder will be given credit for only those days that remained at the time of RFTA submission.

## 5.3.4 Voucher Expiration

The voucher expires automatically on the date indicated on the voucher unless the voucher term changes due to extensions or tolling. If the voucher has expired, and has not been extended by the WHA or expires after an extension, the family will be denied assistance.

# Voucher Issuance, Briefing, and Housing Search

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The family may be entitled to a review or hearing. Applicants who hold a voucher are not entitled to a hearing should the voucher expire before they sign a lease. Movers are entitled to a hearing if the voucher expires before they sign a lease for a unit. If the family is currently assisted, they may remain as a participant in their unit provided there is an assisted lease and contract in effect. Once the voucher expires, the family will be notified by mail at the last address on file with the WHA that the voucher has expired and if the family is entitled to a hearing. This notice also states that the family may reapply for the program.

## **5.4 FAMILY BREAK UP**

A family break-up occurs when a Head, Co-Head, or other adult family member(s) no longer reside together and there is a dispute as to who will retain the voucher. By way of example and not limitation, a family break-up may occur when parties divorce, separate or there is court-issued protective order. When a family breaks up into two otherwise eligible families, only one of the new families shall retain the voucher. In most cases, the WHA has discretion to determine which family member(s) will retain the voucher. It is the intent of this policy to provide guidance as to which new family will retain the voucher.

### **5.4.1 Notice to the WHA**

In the case that a family break-up occurs, or will imminently occur, between the time of the issuance of the voucher and the family leasing and assisted unit, notification of the break-up shall be made to the WHA Director of Leased Housing. Notification shall be made to the WHA as soon as reasonably possible. Together with notification, the WHA must receive written documentation of a family break-up. Written documentation may include but is not limited to signed statement(s) by adult family member(s), court order, documentation by a social service professional or clinician. The WHA may request additional documentation regarding the family break-up.

### **5.4.2 Agreement Amongst Adult Family Members**

If all adult family members expressly agree as to which new family shall retain the voucher, provided the new family retaining the Voucher remains eligible for the program. In the case of such agreement, all adult family members must certify this agreement to the WHA.

### **5.4.3 Court Determination**

If a court determines which new family will retain the voucher by means of a divorce, separation under a settlement or a judicial decree, the WHA shall be bound by the court's decision.

### **5.4.4 WHA Determination**

In the absence of agreement amongst all adult family members or a court determination, the WHA will determine which family member(s) will continue to receive housing

# Voucher Issuance, Briefing, and Housing Search

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assistance. The WHA will evaluate each instance of family break-up on a case-by-case basis and will consider the individual circumstances of the family members.

If a Family Break-Up occurs *because of* domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L, the WHA will ensure the victim retains the housing assistance.

In all other cases, the WHA will consider the following factors (if applicable) in determining which family member(s) will retain the housing assistance:

- a. Whether assistance should remain with the family member(s) remaining in the original assisted unit;
- b. The interests of minor children;
- c. The interests of ill, elderly, or disabled family member(s);
- d. Whether family member(s) are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking;
- e. Whether any family member(s) are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking as provide in 24 CFR part 5, subpart L, and whether the abuser is still in the household.
- f. The possible risks to family member(s) due to criminal activity;
- g. The recommendations of social service professionals and/or clinicians; and
- h. Other factors deemed relevant to the individual circumstances of the family member(s) by the WHA.

## 5.5 HOUSING SEARCH

Once a voucher has been issued, the family is authorized to begin the housing search. The WHA will provide the following resources to the family: apartment listings of owners willing to participate in the program, including handicapped accessible apartments and information on [www.GoSection8.com](http://www.GoSection8.com). These resources will be provided at the briefing. The family is responsible for conducting the housing search and finding suitable housing. The WHA is not responsible for finding housing for the family.

If a family believes it has suffered illegal discrimination in the housing search process the WHA will assist the family by providing copies of the appropriate housing discrimination forms. The WHA will also assist in completing the forms, if requested, and will provide the address of the Housing Discrimination Project, located at 57 Suffolk Street, Holyoke, MA, 01040, the Massachusetts Commission Against Discrimination, 436 Dwight Street, Suite 220, Springfield,

# **Voucher Issuance, Briefing, and Housing Search**

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MA, 01103 and the HUD Office of Fair Housing, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, MA 02202. Such information will be available at the WHA's Admissions Office.

# Income and Adjustments

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The WHA must determine the family's income prior to admission to the program and at least annually thereafter. The family's eligibility and the amount of assistance received by the family are dependent on this determination. In determining annual and adjusted income the WHA follows HUD regulations and not IRS rules. The WHA shall report all sources of income and exclusion amounts of family members on the HUD-50058. The following proscribes the policies and methods the WHA employs to make the determination of the family's income.

## 6.1 ANNUAL INCOME

Annual income means all amounts, monetary or not which:

- a. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- c. Amounts derived (during the 12-month period) from assets to which any member of the family has access.

Annual income does not include the following:

- a. Income from employment of children (including foster children) under the age of 18 years;
- b. 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);
- c. 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 payments in lieu of earnings);
- d. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- e. Income of a live-in aide;
- f. The full amount of student financial assistance paid directly to the student or to the educational institution. However, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, 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

## **Income and Adjustments**

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- considered annual income for persons over the age of 23 with dependent children. “Financial assistance” does not include loan proceeds for the purpose of determining income;
- g. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
  - h. Amounts received under training programs funded by HUD;
  - i. 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);
  - j. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - k. 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;
  - l. 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;
  - m. Temporary, nonrecurring or sporadic income (including gifts, income received from the Post-9/11 GI-Bill for financial support for education and housing, and income received as a Salvation Army “Bell Ringer”);
  - n. 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;
  - o. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
  - p. Adoption assistance payments in excess of \$480 per adopted child;

# Income and Adjustments

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- q. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- r. 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;
- s. 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
- t. 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 C.F.R. § 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.

## 6.1.1 Household Composition and Income

Income received by all household members must be reported to the WHA, even if the income is excluded. Income received by all family members must be counted unless specifically excluded by HUD regulations. The Head of Household must report changes in family composition and income. The table below illustrates how household composition affects annual income determination. The income of temporarily absent family members will be treated in accordance with this table unless and until the family member is removed in accordance with WHA policy from the household composition.

# Income and Adjustments

<b>INCLUDED AND EXLUDED INCOME BY PERSON</b>		
<b>Family Members</b>	<b>Employment Income</b>	<b>Other Income (Including Income from Assets)</b>
Head	Included	Included
Spouse	Included	Included
Co-head	Included	Included
Other Adult	Included	Included
Adult, full-time students other than the head, co-head or spouse	Income over \$480.00 is Excluded	Included
Child Under 18	Excluded	Included
Ineligible Noncitizens	Included	Included
<b>Other Household Members</b>		
Foster Child	Excluded	Excluded
Foster Adult	Excluded	Excluded
Live-in-Aide	Excluded	Excluded

## 6.1.2 Anticipating Annual Income

The WHA is required to calculate anticipated income as opposed to past income. This is income the family expects to receive during the twelve (12) months following the expected date of admission to the program or a subsequent annual reexamination. The WHA will estimate the family’s anticipated income for a twelve (12) month period by:

- a. Identifying all current and anticipated sources of income;
- b. Verifying all income sources and amounts; and
- c. Projecting verified income amounts over the twelve (12) month period by annualization.

The WHA may use past income to project annual income if it is the best indicator of anticipated future income. If verifications indicate income is not expected to change over the coming twelve (12) months the income will be annualized based upon the verification of current income. If verifications indicate that income is expected to end (and not restart) during the coming twelve (12) months, the WHA will annualize income for a shorter period, subject to redetermination at the end of the shorter period (an interim reexamination will be conducted when the income terminates). If the income is seasonal (income that lasts for only a portion of the year) and the income is predictable, the WHA will determine annual income by using the actual income expected to be received in the coming twelve (12) months based on income verification and will not conduct an interim change (example: school crossing guard). If the income is seasonal and is not predictable, then the WHA will annualize income based upon current verification and conduct an interim reexamination when and if the income changes.



# Income and Adjustments

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## 6.1.3 Earned Income

Earned income is compensation for personal services. This includes, but is not limited to, regular wages or salaries, overtime pay, commissions, fees, tips, and bonuses. Earned income is the full amount of income before any payroll deductions, commonly referred to as “gross income”.

Hostile fire, or imminent danger pay for persons serving in the armed forces is not included in earned income.

## 6.1.4 Earned Income Disallowance for Persons with Disabilities

This disallowance (“EID”) applies only to families already receiving assistance under the tenant-based and project-based voucher programs whose:

- a. Annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment; or
- b. Annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program.

The WHA shall treat the disallowance in the following manner:

- a. Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- b. If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- c. During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment;
- d. During the first 12–calendar month period, the WHA shall exclude all increased income resulting from the qualifying employment of the family member.
- e. After the first 12–calendar month period, the WHA shall exclude from annual income of the family fifty (50) percent of any increase in income of such family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income);
- f. The EID benefit is limited to a lifetime 24-month (consecutive) period for the qualifying family member; and

# Income and Adjustments

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- g. At the end of the 24 months, the EID ends regardless of how many months were “used.”

Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 C.F.R. parts 0 to 199, revised as of April 1, 2016).

The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

## **6.1.5 Business Income**

Business income is the net income from the operation of a business or profession. Net income is the gross income minus expenses. An allowance for straight-line depreciation of assets, interest payments on loans and other business expenses may be deducted as a business expense. Expenditures for business expansion or amortization of capital indebtedness, principal payments on loans, interest on loans for business expansion or capital improvements and outlays for capital improvements may not be deducted as a business expense. Any withdrawal of cash or assets for the operation of a business shall be included in annual income except to the extent the withdrawal represents reimbursement of cash or assets invested in the business. Net income from a business may be negative. However, if the net income is negative, it shall be counted as zero income as opposed to an offset of other family income.

## **6.1.6 Periodic Payments**

Periodic payments are forms of income received on a regular basis. Sources for this income include, but are not limited to, Social Security Administration, Annuities, Insurance Policies, Retirement funds, Pension, Disability or death benefits. The full amount of these income sources shall be included with annual income, with the exception of a deduction for prior overpayment in a social security or SSI payment.

If the periodic payment is from any source in which a family has made an investment, such as an annuity, only amounts over and above what the family has invested are included in annual income.

In general, lump sums from the delays in the start of a stream of periodic income shall be included in annual income. However, this does not apply to SSI and SS benefits or VA disability benefits which are excluded from annual income.

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# Income and Adjustments

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## 6.1.7 Payments in Lieu of Earnings

Payments in lieu of earnings such as unemployment benefits, worker's compensation and severance pay are included in annual income whether received in the form of a periodic payment or a lump sum. Payments in lieu of earnings are excluded from annual income if they are received as a one-time settlement payment (e.g. for a claim dispute or permanent work-related injury).

## 6.1.8 Welfare Assistance

Welfare assistance payments are included in annual income. Welfare assistance shall include payments to families or individuals, based on need, under programs funded separately or jointly by federal, state, or local governments, including the TANF program (to the extent they qualify as assistance under the TANF program definition at 45 C.F.R. § 260.31).

If a family's welfare income is reduced (sanctioned) because the family commits fraud or fails to comply with the agency's economic self-sufficient program or work activities requirement, the WHA must include in annual income the "imputed" welfare income. The imputed income is the amount the family would have received if the family had not been sanctioned. This does not apply to reductions in welfare benefits due to the expiration of a lifetime or other time limit on welfare benefits, failure to obtain employment despite fulfillment of the requirement to participate in an economic self-sufficiency program, or noncompliance with any other welfare agency requirement. The amount of 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.

## 6.1.9 Periodic and Determinable Allowances

Periodic and determinable allowances are from sources such as alimony, child support, regular contributions, and gifts from organizations or persons who are not members of the family composition, residing in the assisted unit. In general, the WHA will include as part of annual income amounts awarded as part of a divorce or separation agreement or court-awarded child support payment. However, if the WHA can verify that the family is receiving less than the amount awarded, the amount actually received by the family will be included as annual income. It is the responsibility of the family to show to the WHA, through verifiable sources, that the full award amount is not being received.

Regular contribution or gifts include rent and utility payments made on behalf of a family and other cash and noncash contributions provided on a regular basis. Regular does not necessarily mean the same amount each month. The WHA will evaluate whether contributions or gifts are regular by looking at the total amount of contributions and/or gifts received over a one-year period. Temporary, nonrecurring, or sporadic income and gifts are not counted.

# Income and Adjustments

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## 6.1.10 Student Financial Assistance

Some financial assistance received by students is included in annual income. This applies only to students enrolled at an institution of higher education who are not receiving or seeking assistance with their own parents and are not at least twenty-four (24) years of age with at least one dependent child (for the purposes of this section dependent child shall mean the student's own child; living with the student; who is a minor, a full-time student 18 or over, or a person with disabilities eighteen (18) or over; and is not a foster child). This section applies to full and part-time students.

Annual income from financial assistance that is included:

- a. Received under the 1965 Higher Education Act, from a private source, or from an institution of higher education;
- b. Is a gift (grant or scholarship) and is not a loan; and
- c. Is in excess of amounts received for tuition and any other required fees or charges.

## 6.1.11 Assets

In general, an asset is something that has monetary value such as cash, as savings account, stock in a company, a house, or a parcel of land. There is no upper limit on the value of the assets that a family applying for or participating in the programs may own. Actual or imputed income from a family's assets will be included in a family's annual income.

The calculation of asset income sometimes requires the WHA to make a distinction between an asset's market value and its cash value. The market value of an asset is its worth. The cash value of an asset is its market value less all reasonable costs that would be incurred when converting the asset to cash. Such reasonable costs include penalties for premature withdrawal of funds, broker and legal fees for selling assets or converting them to cash, settlement costs for real estate transactions.

If a family's assets are \$5,000 or less, the WHA will include the actual income from the assets in the family's annual income. If a family's assets are greater than \$5,000, the WHA will use the greater of 1) the actual income from assets or 2) the imputed income (the total cost value of all family assets multiplied by the current HUD-established passbook savings rate). Actual income from an asset is the net income (the total income minus any expenses associated with owning the asset except for expenditures for capital indebtedness).

# Income and Adjustments

The following chart indicates common asset inclusions and exclusions:

A. ASSETS INCLUDE:	B. ASSETS DO NOT INCLUDE:
<ol style="list-style-type: none"> <li>1. Amounts in savings and checking accounts.</li> <li>2. Stocks, bonds, savings certificates, money market funds and other investment accounts.</li> <li>3. Equity in real property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the assets <i>and</i> reasonable costs (such as broker fees) that would be incurred in selling the assets.</li> <li>4. The cash value of trusts that may be withdrawn by the family.</li> <li>5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.</li> <li>6. Some contributions to company retirement/pension funds. Note the discussion below on accessibility of the funds.</li> <li>7. Assets, which although owned by more than one person, allow unrestricted access by the applicant.</li> <li>8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.</li> <li>9. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.</li> <li>10. Cash value of life insurance policies.</li> <li>11. Assets disposed of for less than fair market value during the two years preceding certification or recertification.</li> </ol>	<ol style="list-style-type: none"> <li>1. Necessary personal property, except as noted in A.9.</li> <li>2. Interest in Indian trust lands.</li> <li>3. Assets that are part of an active business or farming operation.</li> <li>4. <i>NOTE:</i> Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant's/tenant's main occupation.</li> <li>5. Assets not controlled by or accessible to the family and which provide no income for the family.</li> <li>6. Vehicles especially equipped for the disabled.</li> <li>7. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.</li> </ol>

NOTE: A key factor in whether or not to include an asset in the calculation of annual income is whether any member of the family has access to the asset. **Source- Housing Choice Voucher Guidebook**

# Income and Adjustments

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The following describes the treatment of certain asset types:

a. Savings and Checking Accounts:

The current balance in a savings account is its cash value. The average balance for the last six months in a checking account is its cash value. The actual anticipated income from an interest-bearing savings or checking account is calculated by using the actual interest rate paid by the bank or other financial institution at which the account is located. Maintenance fees for checking accounts shall be deducted from the interest paid on these accounts when anticipated income is determined. The WHA shall disregard amounts under \$5,000.00 in a family's checking account.

b. Cash:

In general, cash generates no actual income. However, HUD rules require income to be imputed if the sum of all assets is greater than \$5,000.00.

c. Certificates of Deposit:

The market value of a fixed-rate, fixed term CD is the amount originally deposit plus any reinvested interest that has already been paid into the account. The cash value of a CD is the market value minus the penalty charged for early withdrawal. The actual anticipated income on a fixed-rate, fixed term CD is calculated by multiplying the market value by the fixed rate of interest actually paid on the account.

d. Stocks, Bonds, Mutual Funds, and Other:

The WHA shall determine the market value of such investment accounts and the income they generate by using the average value and rate of return over a one year period of time. However, the anticipated income from these accounts shall never be less than zero. If an account loses value over the one year period of time, the anticipated income shall be zero. Interest or dividends paid on an investment account are counted as actual income even if the money is reinvested. Investment expensed shall be deducted when anticipated income is determined.

e. Life Insurance:

The cash value of any life insurance policy available to an individual prior to death is considered an asset. However, not all policies have a cash value.

# Income and Adjustments

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f. Real Property:

The cash value of real property is the amount of the market value minus any unpaid loans secured against the property minus reasonable costs incurred to sell the property. Homes currently being purchased under 24 CFR part 982, part M are not considered an asset for the first ten years after the purchase date. Also not included are: owner-occupied cooperatives, manufactured home, real property that is part of an active business or farming operation, or interest in Indian trust lands. The net rental income from real property is considered an asset.

g. Mortgage or Deed of Trust:

A mortgage or deed of trust is considered a family asset. The market/cash value is the amount of principal still owed by the purchaser. The actual anticipated income is the interest portion of the payments on a mortgage or deed of trust. The principal portion is reimbursement of cash invested by the family member, which is not included in annual income.

h. Employer-Sponsored Pensions and Retirement:

A family's member's employer-sponsored pension or retirement account is considered an asset if the money is accessible to the family member. If the family member is still employed, accessible amounts are included as an asset even if withdrawal would result in a penalty. Amounts that would be accessible only if the person retired or was terminated are not counted. After retirement or termination: any balance that remains in the account and may be withdrawn at any time is counted as an asset, any amount the family member elects to receive in a lump sum is treated as a lump sum receipt, and any periodic amounts distributed to the family member are counted as income except to the extent they represent amounts invested by the family member.

i. Individual Retirement Savings Accounts:

Individual retirement accounts (IRAs), Keogh accounts, and similar retirement savings accounts are counted as assets even though premature withdrawal would result in a penalty. Any fees will be deducted from any income that the accounts generate when anticipated income is determined. Depending on the way such an account is invested, the WHA may need to treat them differently (e.g. CDs, stocks, bonds, or mutual funds).

j. Annuities:

If the holder does not have the right to withdraw the balance in an annuity, the annuity will not be treated as an asset. However, any regular payments from

# Income and Adjustments

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the annuity will be treated as regular income to the extent that they exceed amounts invested by the holder. The WHA must verify the inaccessibility of the annuity balance to the holder, the amount the holder paid for the annuity and the amount the holder has already received in periodic payments. When a holder has the option of withdrawing the balance, the annuity is treated like any other asset.

k. Trusts:

If any member of the family has the right to withdraw the funds in a trust, the trust is considered to be an asset and is treated like any other asset. If no family member has access to a trust at the current time, the trust is not considered an asset. If any family member receives income from the trust, the treatment of the income will depend on the method of distribution (lump sums are treated as lump-sum receipts and periodic payments are counted as income). If any family member establishes a non-revocable trust for the benefit of another person, the trust is considered an asset disposed of for less than fair market value. If the trust has been set up so that income from the trust is regularly reinvested in the trust and is not paid back to the creator, the trust is treated like any other asset disposed of for less than fair market value for two years and not taken into consideration thereafter.

l. Assets Owned Jointly:

If any family member has unrestrained access to a jointly owned asset, the full value of the asset income, and the income it produces, shall be counted. In all other cases, the value of the asset, and the income it produces, shall be prorated evenly among all owners unless the family presents information and documentation to support uneven allocation.

m. Assets Disposed of for Less than Fair Market:

This section applies to both personal and business assets. This section does not apply to assets disposed of in a foreclosure or bankruptcy sale or as part of a separation or divorce settlement when the individual disposing of an asset receives important consideration not measurable in dollar terms. The WHA will calculate the difference between the cash value of the asset and the consideration received for it. The WHA will then impute income based upon this difference for a period of two years. The WHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.00. A family may verify disposal of assets by written declaration, signed under the pains and penalties of perjury.



# Income and Adjustments

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n. Lump-Sum Receipts Counted as Family Assets:

Lump sums not intended as periodic payments are included in a family's assets only if the family retains some or all of the money in a form recognizable as an asset. If a family spends the lump sum, the lump sum is not counted as an asset.

o. Cash from the Sale of Assets:

If a family sells an asset, the cash it receives from the sale is treated like any other lump sum that is not intended as a deferred periodic payment.

p. Withdrawals of Cash from Assets:

Withdrawals are not included in annual income if a family can document that amounts withdrawn are reimbursement of amounts invested by the family. Withdrawals are included in annual income only if they are made on a periodic basis.

## 6.2 ADJUSTED INCOME

A family's adjusted income is the family's annual income minus any deductions mandated by HUD regulations for which the family qualifies.

### 6.2.1 Dependent Deduction

A \$480.00 deduction is taken for each dependent. A dependent is any family member other than the head, spouse, or co-head who is under the age of 18 or 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. When two family receiving assistance under the program share custody of a child, only one family at a time may claim the dependent deduction. Refer to Section 4.3.7.

### 6.2.2 Elderly or Disabled Family Deduction

A single deduction of \$400.00 is taken for any elderly or disabled family. See Sections 4.3.12 and 4.3.14.

### 6.2.3 Medical Expenses Deduction

This deduction is limited to families whose head, spouse, co-head or sole member is at least 62 years of age or is a person with disabilities. If a family qualifies as an elderly or disabled family, the medical expenses of all family members are considered. To qualify for this deduction, medical expenses must be anticipated (regular, ongoing expenses that a family expects to pay in the twelve (12) months following examination or

# Income and Adjustments

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reexamination) and they must be unreimbursed (not be covered by an outside source such as insurance). The medical expense deduction is that portion of a family's total annual unreimbursed medical expenses that exceeds three (3) percent of the family's annual income. To determine what types of expenses may be included as a medical expense, the WHA refers to the current Internal Revenue Service (IRS) Publication 502, *Medical and Dental Expenses*. The prior year's prescription expenses will be an indicator of anticipated prescription expense. If a family is making regular payment over time on a bill for a past one-time medical expense, those payments are included in anticipated medical expenses. However, if a family has received a deduction for the full amount of a medical bill it is paying over time, the family cannot continue to count that bill even if the bill has not yet been paid in full.

## 6.2.4 Disability Assistance Expenses Deduction

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

- a. Are necessary to enable at least one adult family member to work (that member may be the person with disabilities);
- b. The expenses must be anticipated (costs that a family expects to pay during the twelve (12) month period following certification or reexamination);
- c. The expenses may not be reimbursed by an outside source, such as insurance;
- d. The expenses may not be paid to any member of the assisted family; and,
- e. The expenses must be reasonable.

The disability expense deduction is that portion of a family's total annual unreimbursed disability expenses that exceeds three percent (3%) of the family's annual income. Additionally, this deduction is limited to the amount of income earned by the adult family member or members who are enabled to work by the assistance.

Some expenses could qualify as either a medical expense or a disability assistance expense. The WHA will consider such expenses medical expense unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work. If an elderly or disabled family had both forms of expenses, the family's three percent (3%) threshold will only be applied on time. The disability assistance expense deduction will be calculated before the medical expense deduction.

## 6.2.5 Child Care Expense Deduction

A family is only entitled to a deduction for child care expenses only if they are necessary to enable a family member to engage in one of the following three activities:

## Income and Adjustments

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- a. Be gainfully employed (the deduction may not exceed the amount of employment income that is included in annual income; “earnings cap”);
- b. Actively seek work (the family must provide evidence of the family member’s efforts to obtain employment); or
- c. Further his or her education.

When the expenses enable more than one member of the family to work, the WHA will limit the allowable child care expenses to the earned income of the lowest-paid family member. The family may provide information that supports a request to designate another member as the person enabled to work. If child care expenses enable a family member to work and go to school, the WHA shall prorate the child care expenses so that the portion that corresponds to the hours the family member works can be compared with the amount earned during those hours. If child care and disability expenses are necessary to enable the family member to work, the sum of both expenses may not exceed the income of the family member enabled to work.

The WHA shall not decide either who will provide child care for a family’s children or what type of care the children may receive. The WHA shall not refuse to give a family the child care expense deduction because there is an unemployed adult family member in the household that may be available to provide child care.

Child care expenses must be anticipated, must be for the care of children under 13, must not be reimbursed by a source outside of the family, and must be reasonable. A family is entitled to a child care expense deduction for foster children. A deduction under this section shall be granted even if there is an unemployed adult family member in the household that may be able to provide child care.

# Subsidy Standards and Family Share Calculation

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## 7.1 SUBSIDY STANDARDS

The WHA has established the following subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. Subsidy standards are also referred to as “family unit size”. These subsidy standards provide for the smallest number of bedrooms needed to house a family without overcrowding, are consistent with space requirements under housing quality standards, and are applied consistently for all families of like size and composition. These subsidy standards are used to determine the voucher size when families are selected from the waiting list and issued a voucher, when a family’s composition changes, and when a family selects a unit that has a different number of bedrooms from the voucher size.

The WHA subsidy standards relate to the family unit size on the voucher and not the family’s actual living arrangements. The WHA does not determine who shares a bedroom or sleeping room.

### 7.1.1 Determining Family Unit Size

- a. Single person families shall have a unit size of one bedroom;
- b. A single pregnant woman with no other family members is considered a two-person family;
- c. In general, two people will be assigned one bedroom with the following exceptions:
  - Persons of different generations (more than 18 years apart) shall be allocated a separate bedroom;
  - Persons of opposite sex (other than children under the age of eight and spouses, partners, and significant others) shall be allocated a separate bedroom;
  - Unrelated adults shall be allocated a separate bedroom;
  - A live-in-aide shall be allocated a separate bedroom. No additional bedrooms are allocated for the aide’s family;
- d. A child under two shall share a bedroom with their parent if their parent is a single person and is not already sharing a bedroom with another person. If the single parent has two children under two, an additional bedroom shall be allocated;

# Subsidy Standards and Family Share Calculation

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- e. Foster children will be included in determining unit size upon request, if they will be in the unit for longer than twelve (12) months. Documentation may be required.
- f. Space will be provided for a child who is away at school but lives with the family during school recesses;
- g. Space will not be provided for a family member, other than a spouse, who will be absent the majority of the time, such as a family member away in the military.

The following chart details the family unit size and the minimum and maximum amount of persons in the household:

<b>Family Unit Size</b>	<b>Minimum Number of Persons in Household</b>	<b>Maximum Number of Persons in Household*</b>
0 Bedroom	1	1
1 Bedroom	1	4
2 Bedroom	2	6
3 Bedroom	3	8
4 Bedroom	4	10
5 Bedroom	6	12
6 Bedroom	8	14

\* These numbers may be exceeded if a room or rooms, in addition to bedrooms and living room, are used for sleeping.

## 7.1.2 Exceptions to Subsidy Standards

The WHA shall grant exceptions from the subsidy standards as a reasonable accommodation for persons with disabilities. See Section 1.5.

## 7.1.3 Changes to Family Unit Size

The WHA will only issue a larger voucher due to family composition additions based on the birth of a child to an existing family member, adoption of a child by an existing family member, marriage of an existing family member, or court-awarded custody of a person to an existing family member.

The WHA will not issue a larger voucher if adults are added to the family composition. The WHA will not issue a larger voucher if an adult is added to the family composition and that adult is also adding other family members. If an adult is added to the family composition and this adult later gives birth to a child, adopts a child, receives court-awarded custody of a person, or is married, the WHA will not issue a larger voucher. If an applicant or a participant requires a change in family unit size, the guidelines of Section 7.1.1 shall apply.

# **Subsidy Standards and Family Share Calculation**

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## **7.1.4 Violation of HQS Space Standards**

If the WHA 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 WHA will issue the family and new voucher and the family and the WHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the WHA shall terminate the HAP contract in accordance with its terms. If the WHA terminates the HAP contract, the WHA shall notify the family and the owner of the termination. The HAP contract shall terminate at the end of the calendar month that follows the calendar month in which the WHA gives such notice to the owner.

## **7.1.5 WHA Error**

If the WHA errs in determining the family unit size, the family will be issued a voucher of the appropriate size.

## **7.2 PAYMENT STANDARDS**

The payment standard is the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family). A payment standard is used to calculate the monthly housing assistance payment (“HAP”) for the family.

The payment standard for the family is the lower of:

- a. The payment standard amount for the family unit size, or
- b. The payment standard amount for the size of the dwelling unit rented by the family.

HUD publishes the fair market rents (“FMR”) for each market area in the United States on an annual basis. The WHA establishes the payment standard amount at a level between 90 percent and 110 percent of the published FMR for each unit size. The WHA may adjust the payment standard within this range upon approval by the WHA Board of Commissioners. Current payment standards may be obtained by contacting the Leased Housing Department.

For units within the jurisdiction of the WHA, but outside of Worcester County, the WHA establishes the payment standard amount at a level between 90 percent and 110 percent of the published FMR for each unit size.

### **7.2.1 Decrease in the Payment Standard During the HAP Contract Term**

If the WHA lowers its payment standard amount during the term of a HAP contract, the WHA will determine the payment standard for a family utilizing the following method:

# Subsidy Standards and Family Share Calculation

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Specifically, the WHA may:

- Choose not to reduce the family's payment standard so long as the family continues to receive voucher assistance in the unit.

If, as a result of a decrease in the FMR, the payment standard would otherwise fall outside of the basic range (between 90% and 110% of the published FMR), the WHA will not reduce the payment standard for a family that remains under a HAP contract at the second annual reexamination.

## **7.2.2 Increase in the Payment Standard During the HAP Contract Term**

If the payment standard amount is increased during the term of a HAP contract, the increased payment standard amount is used to calculate the HAP for the family at the effective date of the family's first annual reexamination on or after the effective date of the increase in the payment standard amount.

## **7.3 UTILITY ALLOWANCES**

The WHA establishes and maintains a utility allowance schedule that provides reasonable allowances for tenant-paid utilities. The utility allowance is intended to enable participating families to pay typical costs for utilities and services paid by energy-conserving households occupying units of similar size and type in the same locality. Payment of bills for tenant-paid utilities is the responsibility of the family, and any interruption or termination of utility services because of the family's failure to pay is considered a breach of the family's obligations under the program. The utility allowance is intended to only pay the utilities identified on the Utility Allowance Schedule and/or those utilities approved by HUD.

The WHA maintains a utility allowance schedule for tenant-paid utilities, tenant supplied refrigerators and ranges, and other tenant-paid housing services (such as trash collection). The

# Subsidy Standards and Family Share Calculation

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WHA reviews its utility allowance schedule annually, and revises its allowances at other times when there has been a change of ten percent (10%) or more in the utility rates or fuel costs since the last revision of the schedule. The WHA shall calculate the actual utility allowance for a family after the submission of a request for tenancy approval. The current utility allowance schedule may be obtained by contacting the Leased Housing Department.

## 7.4 FAMILY SHARE CALCULATION

At the time of voucher issuance, the WHA will calculate the minimum amount the family will pay towards rent and utilities as well as the maximum subsidy the WHA will pay on behalf of the family. Once the family selects a specific unit, the WHA will calculate the actual housing assistance payment and family share. This section describes how the method to determine these calculations.

### 7.4.1 Terms

The following describes terms as used in this section:

a. Tenant Total Payment (“TTP”):

The TTP is the minimum amount that a family is expected to pay on a monthly basis for rent and utilities. The TTP is the highest of the following amounts, rounded to the nearest dollar:

- a. 30% of the family’s monthly adjusted income;
- b. 10% of the family’s monthly income; or
- c. The minimum rent of \$50.00 as established by the WHA.

b. Family Rent to Owner:

The portion of rent to owner paid by the family. (If the family is not responsible for paying any utilities, family rent to owner will equal family share).

c. Family Share:

The portion of rent and utilities paid by the family.

d. Gross Rent:

The sum of the rent to owner plus any utility allowance. (If all utilities are included in the rent, the rent to owner and the gross rent are the same).



# Subsidy Standards and Family Share Calculation

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e. Housing Assistance Payment (“HAP”):

The monthly assistance payment by the WHA, which includes:

- A payment to the owner for rent to the owner under the family’s lease; and
- An additional payment to the family if the total assistance payment exceeds the rent to owner.

f. Maximum Subsidy: The maximum subsidy is the payment standard minus the TTP.

g. Minimum Rent:

The minimum rent as established by the WHA is \$50.00 per month.

h. Rent to Owner:

The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payments for any housing services, maintenance and utilities that the owner is required to provide and pay for. This is also referred to as “contract rent”.

i. Utility Reimbursement:

The portion of the housing assistance payment which exceeds the amount of the rent to owner.

## 7.4.2 Calculating the Housing Assistance Payment

The HAP payment is calculated after a unit has been selected and the gross rent for the unit is known. The HAP payment is the lower of:

- a. The payment standard for the family minus the TTP; or
- b. The gross rent minus the TTP.

## 7.4.3 Calculating the Family Share

The family share may be the TTP amount or a higher amount, depending on the unit the family selects. For a family leasing a unit with a gross rent at or below the payment standard for the family, the family share will be the same as the TTP. For a family leasing a unit with a gross rent above the payment standard for the family, the family

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# Subsidy Standards and Family Share Calculation

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share is the TTP plus any amount by which the gross rent exceeds the payment standard (subject to Section 7.4.5).

## 7.4.4 Utility Reimbursement

The utility reimbursement is the portion of the housing assistance payment which exceeds the amount of the rent to owner. In the case of a utility reimbursement, the WHA pays the full amount of the rent to the owner and sends the utility reimbursement to the family.

## 7.4.5 Maximum Initial Rent Burden

If a family selects a unit with a gross rent that exceeds the WHA payment standard, the WHA will determine whether the family's share for the unit would exceed the maximum initial rent burden. The family share may not exceed forty percent (40%) of the family's monthly adjusted income when the family initially moves into the unit or signs the first assisted lease for a unit.

Subsequent rent increases during the family's occupancy of the unit that cause the family share to exceed forty percent (40%) of monthly adjusted income is permissible so long as the rent to owner is determined to be reasonable (See Section 9.1.2).

## 7.4.6 Impact of Unit Selection on Subsidy

If a family selects a unit with fewer bedrooms than the family unit size and HQS is not violated (See Section 7.1), the WHA shall apply the payment standard of the unit size selected. The utility allowance used will be based on the actual size of the selected unit.

## 7.4.7 Prorated Assistance for Mixed Families

For families that include both members who are citizens or have eligible immigration status and members who do not have eligible immigration status (or elect not to state they have eligibility status), the amount of assistance is prorated, based on the percentage of household member who are citizens or documented eligible immigrants. The WHA shall calculate prorated assistance in the following manner:

- a. Determine gross rent for the unit.
- b. Determine the HAP amount, taking into consideration the income of all household members.
- c. Determine the proration factor by dividing the number of eligible family member by the total number of members in the household.

## Subsidy Standards and Family Share Calculation

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- d. Multiply the HAP amount by the proration factor. This is the family's prorated HAP.
- e. Subtract the prorated HAP from the gross rent.

### 7.4.8 Exemption from Minimum Rent

If a family experiences a financial hardship and is unable to pay the minimum rent, the family can request an exemption from payment of minimum rent. This exemption applies only to families required to pay the minimum rent of \$50.00. This exemption applies only to the payment of the minimum rent. A financial hardship applies to the following situations:

- a. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a 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;
- b. When the family would be evicted because it is unable to pay the minimum rent;
- c. When the income of the family has decreased because of changed circumstances, including loss of employment; and
- d. When a death has occurred in the family.

Financial hardships may be temporary or long term. A temporary hardship lasts for a period of ninety (90) days or less. A long term exemption lasts for a period of longer than ninety (90) days.

If a family requires an exemption from paying the minimum rent, the family must put the request in writing together with documentation of the hardship. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent. Once the WHA receives such a request, together with documentation, the WHA will suspend the minimum rent requirement beginning the month following the family's request for an exemption until the WHA determines whether there is a qualifying financial hardship and whether the hardship is temporary or long term. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP

If the WHA determines there is no qualifying financial hardship, the WHA shall reinstate the minimum rent, including back rent owed from the beginning of the suspension. In

## **Subsidy Standards and Family Share Calculation**

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such circumstances, the family must repay the WHA the back rent in full within thirty (30) days of the reinstatement of the minimum rent.

If the WHA determines there is a qualifying financial hardship and the hardship is temporary, the WHA shall not impose the minimum rent during the ninety (90) day period beginning the month following the date of the family's request for a hardship exemption. At the end of the suspension period, the WHA shall reinstate the minimum rent from the beginning of the suspension. The family must enter into a repayment agreement with the WHA, for the amount of back rent owed by the family. This repayment agreement shall not exceed six (6) months.

If the WHA determines there is a qualifying financial hardship and the hardship is long term, the WHA shall exempt the family from the minimum rent so long as the hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

# **Housing Quality Standards (HQS) and Inspections**

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## **8.1 HOUSING QUALITY STANDARDS IN GENERAL**

All units leased to a family must be inspected prior to the initial term of the lease. In addition, the WHA requires annual inspections during the assisted occupancy, and at other times as needed. Such inspections ensure the unit meets HUD's Housing Quality Standards ("HQS") and the Massachusetts State Sanitary Code (105 CMR 410.000) (together referred to as "inspection standards"). If there is an inconsistency between the HQS and State Sanitary Code, the WHA will apply the minimum standard of the stricter of the two. For purposes of this section, the term "unit" shall mean the assisted apartment or home, the building and the premises.

The WHA encourages all owners to provide housing that exceeds minimum inspection standards. The WHA will not promote any additional acceptability criteria likely to adversely affect the health or safety of participant families or severely restrict housing choice.

### **8.1.1 Housing Quality Standards**

HUD's performance and acceptability standards are provided in 24 C.F.R. § 982.401. These standards cover the following thirteen (13) areas:

- a. Sanitary facilities;
- b. Food preparation and refuse disposal;
- c. Space and security;
- d. Thermal environment;
- e. Illumination and electricity;
- f. Structure and materials;
- g. Interior air quality;
- h. Water supply;
- i. Lead-based paint;
- j. Access;
- k. Site and neighborhood;
- l. Sanitary condition; and
- m. Smoke detectors.

# Housing Quality Standards (HQS) and Inspections

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## 8.1.2 Life Threatening Conditions

The WHA has defined the following as life threatening conditions:

- a. Any condition that jeopardizes the security of the unit;
- b. Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling;
- c. Natural or liquefied petroleum gas or fuel oil leaks;
- d. Any electrical problem or condition that could result in shock or fire;
- e. A heating system that is unable to maintain heat in accordance with 105 CMR 410.201;
- f. Utilities not in service, including no running hot water;
- g. Conditions that present the imminent possibility of injury;
- h. Obstacles that prevent safe entrance or exit from the unit;
- i. Absence of a functioning toilet in the unit; and
- j. Inoperable smoke or carbon monoxide detectors.

## 8.2 INSPECTIONS

The WHA has hired a private contractor to perform inspections on behalf of the WHA. The term “inspector” as used in this section shall mean the private contractor or its employees.

### 8.2.1 Initial Inspections

Prior to the initial term of the lease, the unit must be inspected and the unit must satisfy the inspection standards. After the WHA receives a Request for Tenancy Approval (“RFTA”), the WHA will inform the inspector the unit requires an initial inspection. The inspector will contact the owner directly to schedule the inspection. To the extent practicable, such inspection and determination of whether the unit satisfies the inspection standards will be completed within fifteen (15) days of the submission of the RFTA. This fifteen day clock is suspended during any period when the unit is not available for inspection. The owner or the owner’s representative presence in the unit is required during the initial inspection. If thirty (30) days has elapsed since the submission of a RFTA and the owner has not permitted an initial inspection, the owner and the family will be notified the RFTA has been cancelled, unless otherwise approved by the WHA for extenuating circumstances.

# Housing Quality Standards (HQS) and Inspections

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If any inspection standard violations are identified, the owner will be notified of the deficiencies. Once the necessary repairs are complete, the owner must contact the inspector to schedule a re-inspection of the unit. If any inspection standard violations remain after two re-inspections, the owner must request WHA approval for any further re-inspections. All inspection standard violations must be rectified within sixty (60) days of the failed initial inspection. If the unit does not pass a re-inspection within the sixty (60) days, the owner and the family will be notified that the RFTA has been cancelled, unless otherwise approved by the WHA for extenuating circumstances. If the same family submits a RFTA for the same unit that did not pass an initial inspection within the sixty (60) days, the unit must pass an initial inspection within thirty (30) days.

All utilities must be in service prior to the initial inspection. If the utilities are not in service at the time of the inspection, the inspector will notify the participant or owner (whomever is responsible for the utilities as specified on the RFTA) to turn on the utilities.

## 8.2.2 Annual Inspections

An annual inspection is completed annually on each unit under a HAP contract. This inspection is scheduled prior to the anniversary date of the last annual inspection (or initial inspection). The inspector will give reasonable notice to the owner and family of the date of the annual inspection. A person over the age of eighteen (18) must be present during the annual inspection. If there is no person present at the time of the scheduled annual inspection, the family will be assessed a \$25.00 missed inspection fine. The family may also face termination of assistance for violating the family obligations. In addition, if there is no person present at the time of the annual inspection, the unit will receive an “inconclusive” rating. The inspector will re-schedule another annual inspection within two (2) weeks and notify the owner and family of the date and time of the inspection. If there is a second inconclusive annual inspection, the WHA will take action to terminate assistance for the family or approve another annual inspection depending on the circumstances.

If any inspection standard violations are identified, the owner and the family will be notified of the deficiencies. The owner must correct such deficiencies, except for certain deficiencies that were attributed to the family by the inspector (as indicated on the HUD Inspection Form). If the deficiencies were based upon housekeeping, hoarding, utilities not in service that the tenant is responsible, for or an appliance that the tenant owns then the family must correct such deficiencies. If the family has caused a breach of HQS, the WHA may terminate assistance for the family. All life-threatening deficiencies must be corrected within twenty-four (24) hours. All other deficiencies must be corrected within thirty (30) days. The WHA will consider written requests to extend the thirty day time period to correct deficiencies. Requests for extension must be submitted in writing (e-mail is sufficient) within fourteen (14) days of the failed inspection. The request must include the reason for the extension along with any supporting documentation.

# Housing Quality Standards (HQS) and Inspections

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A re-inspection will be conducted after the thirty day corrective period (or after any WHA approved extension). The re-inspection typically occurs within thirty-five (35) days. The inspector will give reasonable notice to the owner and family of the date of the re-inspection. If there is no person present at the time of the re-inspection, the unit will be determined to be in failed status with an “inconclusive” rating. If the deficiencies have not been corrected by the time of the re-inspection or the unit fails re-inspection due to an inconclusive rating, the WHA will send notice of abatement to the owner, or in the case of family caused deficiencies, a notice of proposed termination to the family. (See Section 8.4)

## **8.2.3 Special/Complaint Inspections**

If a participant family, government official, owner, or third-party reports a condition that is life-threatening, an inspection will be completed within twenty-four (24) hours of receiving notification. If a condition is reported which is not life-threatening, an inspection will be completed within fifteen (15) days of the receiving notification.

## **8.2.4 Quality Control Inspections**

Quality control inspections ensure each inspector is conducting accurate and complete inspections and that there is consistency among inspectors. Such inspections shall include recently completed inspections that cover a cross-section of neighborhoods and inspectors.

WHA’s contractor will be responsible for having a qualified inspector perform the number of quality control inspections as required by the Section 8 Management Assessment Plan.

## **8.3 ABATEMENT**

If the deficiencies have not been corrected by the time of the re-inspection or the unit fails re-inspection due to an inconclusive rating, the WHA will abate housing assistance payments no later than the first of the month following the thirty day corrective period (or after any WHA approved extension). No retroactive payments will be made to the owner for the period of time the rent was abated. Rents are not abated as a result of inspection standard failures that are the family’s responsibility. Rents are abated as a result of failures due to inconclusive rating.

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 the abated amounts and may not use the abatement as a cause for eviction.

The WHA will inspect abated units within five (5) days of the owner’s notification that the work has been completed. Payment will resume effective on the day after the unit passes inspection.



# **Housing Quality Standards (HQS) and Inspections**

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## **8.4 HAP CONTRACT TERMINATION- ABATEMENT**

The maximum length of time that a HAP contract may be abated is sixty (60) days. After a unit has been abated for thirty (30) days, the WHA will send notice to the owner and family the HAP contract will be terminated and the effective date of the termination. The effective date is the sixty day date. The family is notified they are entitled to receive a voucher to search for a new apartment. If the family remains in the unit after the effective date, the family will be responsible for the full contract rent. If the owner completes the corrections and the unit passes a re-inspection prior to the effective date and the family still resides in the unit and desires to remain in the unit, the WHA may rescind the termination notice.

## **8.5 LEAD-BASED PAINT**

Prior to the execution of the HAP contract, the owner must inform the WHA and the family of any known lead-based paint or lead-based paint hazards on the premises. The WHA provides to all families a copy of the HUD brochure, "Protect Your Family from Lead in Your Home". All owners and families must complete and sign the Massachusetts Tenant Lead Law Notification and Certification Form. Owners must provide the WHA with a lead certificate of compliance for all units and/or buildings built prior to 1978 if a child under the age of six (6) resides in the unit. This also applies if a child under the age of six is added to the household if such a certificate was not previously submitted. The date of this certificate must not be more than ten (10) years old.

If the WHA is notified by a public health department or other medical health care provider that a child of less than six (6) years of age living in an assisted unit has been identified as having an environmental intervention blood lead level ("EIBLL"), the WHA shall complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of the common areas servicing the dwelling unit within fifteen (15) days. The WHA shall not conduct a risk assessment if such an assessment or health department environmental investigation has already been performed. The WHA shall provide the report of the risk assessment to the owner. If the child identified as having an EIBLL is no longer living in the unit when the WHA receives notification from the public health department or other medical health care provider, but another household receiving tenant-based rental assistance is living in the unit or is planning to live there, the requirements of this section apply just as they do if the child still lives in the unit.

If the WHA receives information from a source other than a public health department or other medical health care provider that a child of less than six (6) years of age living in an assisted dwelling unit may have an EIBLL, the WHA shall immediately verify the information with a public health department or other medical health care provider. If that department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification to the WHA.

Within five (5) working days of receiving a medical provider's report, the WHA shall report the EIBLL child to the health department.

## **Housing Quality Standards (HQS) and Inspections**

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Within thirty (30) days after receiving the risk assessment report from the WHA or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with 24 C.F.R. § 35.1325 or §35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with 24 C.F.R. § 35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or when the public health department certifies that the lead-based paint hazard reduction is complete. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS). The owner shall also notify affected building residents of evaluation or hazard reduction results (regardless of whether the child with the EIBLL is or is not still living in the assisted units). If the hazard reduction is not performed, the unit does not meet HQS standards.

The WHA is unable to comply with the following HUD requirement due to the Fair Information Practices Act (MGL c.66A): On a quarterly basis the WHA shall ask the local health department for the names and addresses of EIBLL children. The WHA will cross-reference this list with assisted families. If a match occurs, the WHA will carry out the procedure discussed above. On a quarterly basis, the WHA must report an updated list of the addresses of units receiving assistance under the program to the same health department unless the health department states it does not wish to receive such report.

# Leasing

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This chapter explains the lease-up process from the family's submission of a Request for Tenancy Approval (RFTA) to execution of the HAP Contract.

## 9.1 REQUEST FOR TENANCY APPROVAL

After a family is issued a voucher, they may search for a unit anywhere within WHA's jurisdiction (Commonwealth of Massachusetts), or outside of the WHA's jurisdiction if they qualify for portability. When a family finds a suitable unit and the owner is willing to lease the unit under the program, the family or owner must submit a Request for Tenancy Approval (RFTA) – Form HUD 52517 to the WHA.

The Request for Tenancy Approval must be completed in its entirety and signed by both the owner and voucher holder. The WHA will not permit the family to submit more than one RFTA at a time.

WHA will review the Request for Tenancy Approval and approve it if:

- a. The unit is an eligible type of housing;
- b. At the time of inspection, the unit meets HUD's Housing Quality Standards and the Massachusetts State Sanitary Code (See Section 8).
- c. The rent is reasonable;
- d. The required security deposit, if any, is reasonable and customary;
- e. The owner is approvable, and there are no conflicts of interest;
- f. The family's share of rent and utilities does not exceed forty percent (40%) of the family's monthly adjusted income (See Section 7); and
- g. For units heated by oil where the family is responsible for providing the oil, the family has provided evidence they have entered into a budget payment plan for oil service.

### 9.1.1 Ineligible Housing Types

The following types of housing may not be assisted in the tenant-based HCV program:

- a. Public housing or Indian housing units;
- b. Units receiving project-based assistance under Section 8 of the 1937 Act;
- c. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;

# Leasing

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- d. College or other school dormitories;
- e. Units on the grounds of penal, reformatory, medical, mental and similar public or private institutions;
- f. A unit occupied by its owner or by a person with any interest in the unit; and
- g. Units owned by a disapproved owner under 24 C.F.R. § 982.306.

## **9.1.2 Rent Reasonableness**

The WHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

The WHA utilizes GoSection8.com in determining rent reasonableness. In determining if a rent is reasonable, the WHA will take into consideration the following factors:

- a. Location;
- b. Size;
- c. Type;
- d. Quality;
- e. Age;
- f. Amenities;
- g. Housing services;
- h. Maintenance; and
- i. Utilities supplied by owner.

By accepting each monthly Housing Assistance Payment from WHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide WHA with information requested on rents charged by the owner on the premises or elsewhere.

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At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by WHA.

If the proposed gross rent is determined not to be reasonable, the WHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent can be approved after negotiations with the owner, WHA will continue processing the Request for Tenancy Approval.

If the owner does not agree on the rent to owner after WHA has tried and failed to negotiate a revised rent, the WHA will inform the family and owner that the RFTA is disapproved. The voucher holder will be re-issued a voucher with tolling time and any remaining search time. If the voucher does not have any search time remaining, the voucher holder will only be credited the tolling time.

### **9.1.3 Owner Disapproval**

The following describes WHA policy on disapproval of owners (for the purposes of this section, “owner” includes a principal or other interested party):

The WHA must not approve an assisted tenancy if the WHA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 2 C.F.R. part 24.

When directed by HUD, the WHA must not approve an assisted tenancy if:

- a. The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
- b. A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

In its administrative discretion, the WHA may deny approval of an assisted tenancy for any of the following reasons:

- a. The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- b. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- c. The owner has engaged in any drug-related criminal activity or any violent criminal activity;

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- d. 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;
- e. 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:
  - Threatens the right to peaceful enjoyment of the premises by other residents;
  - Threatens the health or safety of other residents, of employees of the WHA, or of owner employees or other persons engaged in management of the housing;
  - 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
  - Is drug-related criminal activity or violent criminal activity; or
  - The owner has a history or practice of renting units that fail to meet State or local housing codes;
  - The owner has not paid State or local real estate taxes, fines or assessments; or
  - The owner or recipient of the HAP is not lawfully within the United States and does not have eligible immigration status.

The WHA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family; unless the WHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against WHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to WHA approval of a new tenancy with continued tenant-based assistance in the same unit.

Nothing in this Administrative Plan is intended to give any owner any right to participate in this program.

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## 9.1.4 Prohibition Against Other Housing Subsidy

A family may not receive the benefit of 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:

- a. Public or Indian housing assistance;
- b. Other Section 8 assistance (including other tenant-based assistance);
- c. Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- d. Section 101 rent supplements;
- e. Section 236 rental assistance payments;
- f. Tenant-based assistance under the HOME Program;
- g. Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- h. Any local or State rent subsidy;
- i. Section 202 supportive housing for the elderly;
- j. Section 811 supportive housing for persons with disabilities;
- k. Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- l. 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.

## 9.1.5 Disapproval of Request for Tenancy Approval

If the WHA determines that the RFTA cannot be approved for any reason, the landlord and the family will be notified by phone. The WHA will instruct the owner and family what is necessary to do in order for the RFTA to be approved. If the disapproval of the RFTA is the result of a failed HQS inspection and the owner is unwilling to bring the unit into compliance, the WHA will provide another RFTA form to the family so that the family can continue to search for eligible housing. The voucher holder will be

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given credit ‘tolling time’ for the number of days between the submission of the RFTA and its disapproval. If the tolling time exceeds the number of search days remaining on the voucher at the time of the RFTA submission, the voucher holder will be given credit for only those days that remained. (See Section 5.3.3)

Once a RFTA is submitted for approval, the WHA will initiate the HQS inspection process. Unless otherwise noted and approved, the initial inspection of the unit must be scheduled within 15 days of the RFTA submission. If the WHA is unable to inspect the unit within 30 days of the RFTA submittal (unless otherwise noted and approved) the RFTA will be denied.

## 9.2 THE LEASE AND TENANCY ADDENDUM

### 9.2.1 The Lease

The WHA will request a copy of the lease and HUD-required Tenancy Addendum after the unit has passed inspection. The WHA shall specifically review the items listed below:

- a. The tenant must have the legal capacity to enter a lease under state and local law (HUD defines “legal capacity” to mean that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner);
- b. The lease must comply with state and local law and the WHA may decline to approve the lease if it determines that the lease does not comply (the WHA shall not be liable under this Section if the WHA erroneously determines that the lease complies with State and local law) ;
- c. If the property owner chooses not to use the WHA lease, the lease for the assisted family must be in the same standard form as the lease for an unassisted family;
  - If the owner chooses to use their own lease, it must contain all elements of the WHA Lease Checklist;
- d. The responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA (the WHA does not allow for flat-rate utility billing); and
- e. The lease includes the following components:
  - Name of the owner and tenant;
  - Address of the unit rented including the apartment number; and



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- Initial term of the lease and provisions for renewal. The initial term of the lease shall be no less than twelve (12) months. Leases of shorter duration may be approved by the WHA on a case-by case basis for good cause. The WHA shall not approve leases of more than thirteen (13) months). The lease must contain provisions for renewal. The lease may renew on either a month-to-month or indefinite basis following the initial lease term, unless the lease is otherwise terminated;
- Amount of monthly rent to the owner;
- Specifications about which utilities and appliances are supplied by the owner and which are to be supplied by the family;
- The lease should also set out the provisions for tenant termination and owner rent increase; and
- Leases containing Tenancy at Will language will not be accepted.

## 9.2.2 Actions Before Lease Term

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

- a. The WHA has inspected the unit and has determined that the unit satisfies HQS (tenant-based program);
- b. The WHA has determined that the rent charged by the owner is reasonable;
- c. The landlord and the tenant have executed the lease, including the HUD-required Tenancy Addendum;
- d. The WHA has approved leasing of the unit in accordance with program requirements; and
- e. The WHA has determined the unit is affordable and that the family's share of rent and utilities does not exceed forty percent (40%) of the family's monthly adjusted income, which shall include exempt income in the calculation of adjusted income for this purpose.

## 9.2.3 Separate Agreements

Owners and families may not execute separate agreements for services, appliances and other items that are not included in the lease.

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Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease. Entering into side agreements may result in the termination of the HAP contract with the property owner, the disbarment of the property owner from participation in the program and termination of assistance for the voucher holder.

## **9.2.4 Tenancy Addendum**

The tenancy addendum is required by HUD and sets forth the tenancy requirements of the program and the composition of the household as approved by the WHA. All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. Tenants have the right to enforce the tenancy addendum against the owner. The terms of the tenancy addendum shall prevail over any other provisions of the lease.

## **9.3 EXECUTION OF DOCUMENTS AND PAYMENTS**

### **9.3.1 Contract Execution Process**

The WHA prepares the Housing Assistance Payments Contract and Tenancy Addendum for execution. The family and the owner will attach the Tenancy Addendum to the lease and execute the lease agreement and the owner and WHA will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The WHA will retain a copy of all signed documents.

The WHA will make every effort to execute the HAP Contract before the commencement of the lease term. The HAP contract may not be executed more than sixty (60) days after commencement of the lease term and no payments will be made until the HAP contract is executed. For participants who are transferring from another subsidized program, the WHA will not enter into a HAP Contract effective prior to the end of the initial lease term in the previous program.

### **9.3.2 Term of HAP Contract**

The term of the HAP contract begins on the first day of the lease term and ends on the last day of the lease term. The HAP contract terminates if any of the following occurs:

- a. The lease is terminated by the owner or the tenant;
- b. The WHA terminates the HAP contract; or
- c. The WHA terminates assistance for the family.

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If the family terminates the lease on notice to the owner, the family must give the WHA a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program. The family must notify the WHA and the owner before the family moves out of the unit. Failure to do this is a breach of family obligations under the program.

# Moves with Continued Assistance and Portability

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HUD regulations permit families to move with continued assistance to another unit within the WHA's jurisdiction, or to a unit outside of the WHA's jurisdiction under portability procedures. The regulations also allow the WHA the discretion to develop policies which define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of the WHA's jurisdiction, and the policies for limitations and restrictions on moves. The jurisdiction of the WHA is anywhere in the Commonwealth of Massachusetts.

## 10.1 MOVING WITH CONTINUED ASSISTANCE

### 10.1.1 When a Family May Move

A family may move to a new unit with continued assistance under the following conditions:

- a. The assisted lease for the old unit has terminated because either the WHA has terminated the HAP contract for the owner's breach or the lease has terminated by mutual agreement of the owner and the family;
- b. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated) See Section 12.4.1;
- c. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to the owner, for owner breach, or otherwise);
- d. The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 C.F.R. part 5, subpart L, and the move is needed to protect the health or safety of the family or family member. The WHA may not terminate assistance if the family, with or without prior notification to the WHA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit, or if he or she was the victim of sexual assault that occurred on the premises within the last ninety (90) calendar days; or
- e. The WHA determines that the family's unit does not meet the HQS space standards (due to an increase in family size or change in family composition).

# Moves with Continued Assistance and Portability

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## 10.1.2 Restrictions on Moves

A family is not permitted to move within or outside of the WHA's jurisdiction during the initial lease term. A family is not permitted to move more than once during any twelve (12) month period. Exceptions to these restrictions shall be considered if there are circumstances beyond the control of the family which require a move or transfer for safety or other good cause. The following examples illustrate the types of situations the WHA may consider circumstances beyond the control of the family which require a move or transfer for safety or other good cause:

- a. The family's unit is rendered unsafe by fire or an owner's refusal to pay utilities that are the responsibility of the owner.
- b. The family is approved for a reasonable accommodation due to a disability.
- c. The owner is selling the property to a new owner who does not complete the assignment of the HAP contract.
- d. The family or a member of the family has been a victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the family or family member's health and safety, in accordance with the Worcester Housing Authority Violence Against Women Act (VAWA) Policy.

Request for exceptions to these restrictions, except paragraph (d), must be submitted in writing together with satisfactory documentation of the circumstances beyond the control of the family which require a move or transfer for safety or other good cause. If a family is requesting an exception under paragraph (d), the family shall follow the protocol outlined in the Worcester Housing Authority Violence Against Women Act (VAWA) Policy.

## 10.1.3 Family's Request to Move

If a family wants to move to a new unit with continued assistance, the family must notify the WHA and the owner in writing before moving from the old unit. If the family wants to move to a new unit that is located outside of the WHA's jurisdiction, the notice to the WHA must specify the area where the family wants to move (see Section 10.2 below).

The family must give the owner proper notice of their intent to vacate in accordance with the time specified by the lease. A copy of such notice must also be submitted to the WHA. If a family and owner execute a mutual lease termination, it must be signed by both the head-of-household and the owner and must be submitted to the WHA by the tenth (10<sup>th</sup>) of the month in which the lease is being terminated.

If the family does not locate a new unit, they may remain in the current unit (if the unit continues to meet program requirements and the tenant has rescinded their notice).

# Moves with Continued Assistance and Portability

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If the family finds a new unit, the family must follow the steps to lease-up as outlined in Sections 8 and 9. At the time of lease-up an annual reexamination will be conducted and the annual reexamination date will be changed to coincide with the new lease-up date.

## 10.1.4 Owner HAP when the Family Moves

If the family moves, the WHA shall not make any HAP to the owner for the month after the month the family moves. The owner may retain any HAP for the month during which the family moves (i.e. the owner will be paid for entire month if the family gives notice they will vacate on the 15<sup>th</sup> of the month). However, the WHA shall not continue to make payments on behalf of a holdover tenant (i.e. the family gives notice they will vacate on the 31<sup>st</sup> of the month and they do not vacate until the 3<sup>rd</sup> of the following month).

If a family moves with continued assistance, the term of the assisted lease for the new unit may begin during the month the family moves out of the old assisted unit. Such overlap of HAP will only be approved for extenuating circumstances and may not create a financial burden on the WHA.

## 10.1.5 Zero HAP Families Who Wish to Move

If a family is not receiving any subsidy and the HAP contract has not been cancelled the family may request a voucher to move. However, if the WHA determines that no subsidy would be paid at the new unit, the WHA shall refuse to enter into a HAP contract on behalf of the family.

## 10.1.6 Denial of Permission to Move

The WHA may deny permission to move if the WHA does not have sufficient funding for continued assistance. The WHA may deny permission to move if there are grounds for denial or termination of assistance in accordance with 24 C.F.R. § 982.552.

## 10.2 PORTABILITY

Portability is the process of obtaining a tenant-based voucher from one housing authority (initial PHA) and leasing a unit outside of the jurisdiction of the initial PHA in the jurisdiction of another PHA (receiving PHA). If the family obtains the voucher from the WHA and leases a unit outside of the jurisdiction of the WHA, the process is referred to as “porting out”. If the family obtains the voucher from another PHA and leases a unit in the jurisdiction of the WHA, the process is referred to as “porting in”.

# Moves with Continued Assistance and Portability

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## 10.2.1 Porting Out

Within the limitations of the HUD regulations and this Plan, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the WHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program.

If the family desires to use the voucher outside of the WHA jurisdiction, the family must notify the WHA of its desire to relocate and must specify the location where it wants to live. If the family currently receives assistance from the WHA, the family must give the current owner proper notice of its intent to vacate. A copy of such notice must also be submitted to the WHA. The family must give the owner proper notice of their intent to vacate in accordance with the time specified by the lease. A copy of such notice must also be submitted to the WHA. The WHA shall make a determination of the family's eligibility to move in accordance with Section 10.1 above.

If there is more than one PHA that serves the area the family desires to relocate to, the WHA shall provide the family with the contact information for the receiving PHAs that serve the area, and the family shall select the receiving PHA. The family must inform the WHA which PHA it has selected as the receiving PHA. In cases where the family prefers not to select the receiving PHA, the WHA selects the PHA on behalf of the family.

If a family was not already receiving assistance from the WHA under the HCV program (applicant family), the WHA must determine whether the family is eligible for admission to the receiving PHA's HCV program. The WHA shall use the receiving PHA's income limits.

Once the receiving PHA is determined, the WHA shall contact the receiving PHA, via email or other confirmed delivery method, prior to approving the family's request to move in order to determine whether the voucher will be absorbed or billed by the receiving PHA. The receiving PHA must advise the WHA in writing, via email or other confirmed delivery method of its decision. If the receiving PHA states it will absorb the voucher, it may not reverse its decision at a later date without the consent of the WHA. If the receiving PHA will bill the WHA and the cost of the HAP will increase due to the move, the WHA may deny the move if it does not have sufficient funding for continued assistance. In such cases where the WHA does not have sufficient funding for continued assistance, the WHA shall provide written notification to the local HUD office within ten (10) business days of determining it is necessary to deny moves to a higher-cost unit based on insufficient funding in accordance with PIH 2012-42. Before denying on this basis, the WHA shall contact the receiving PHA to determine if the receiving PHA will absorb.

Once the billing arrangement is approved by the WHA or the receiving PHA agrees to absorb the voucher, the WHA shall issue the family a voucher to move. The WHA will advise the family how to contact and request assistance from the receiving PHA. The

# Moves with Continued Assistance and Portability

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WHA will notify the receiving PHA to expect the family. The WHA shall also supply the receiving PHA with the following:

- a. Form HUD-52665;
- b. Most recent form HUD 50058; and
- c. All related verification information.

The WHA may also submit additional information on file with the WHA to the receiving PHA.

It is the responsibility of the family to contact the receiving PHA in order to be informed of their procedures for incoming portable families. Failure to comply with such procedures may result in denial or termination of the receiving PHA's voucher.

At any time, the receiving PHA may make a determination to deny or terminate assistance to the family in accordance with 24 CFR §§982.552 and 982.553. The WHA shall not provide portability assistance to a participant family if the family has moved out of its assisted unit in violation of the lease, unless the family has complied with all other family obligations and moved out of the unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed that he or she was in imminent danger of further violence if he or she remained in the unit. The WHA shall not provide portability assistance to a family if the family owes money to the WHA. The WHA must deny portability assistance if the family wishes to move to an area in which there is no PHA administering the voucher program. The WHA shall not permit an applicant family to move into another PHA's jurisdiction if the family is not income eligible for admission to the voucher program in the receiving PHA.

## 10.2.2 Porting In

The WHA is required to administer assistance for a family porting in. If the WHA is contacted by an initial PHA, the WHA will inform the initial PHA by email or other confirmed delivery method whether it will absorb the family into its HCV program or bill the initial PHA. If the family is absorbed, the initial PHA has no further obligation to the family. If the WHA makes the decision to absorb the family, it may not reverse its decision at a later date. The WHA may also bill the initial PHA for housing assistance payments and administrative fees. The amount of housing assistance payment is determined in the same manner as for other families in the WHA's program.

When the WHA receives a request from a family porting in, the WHA will process the family's portability move if the voucher issued to the family by the initial PHA has not yet expired, the family's paperwork is in order and the family complies with the WHA's procedures. If the family's voucher issued by the initial PHA has expired, the WHA shall



# Moves with Continued Assistance and Portability

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refer the family back to the initial PHA. It is the responsibility of the initial PHA to decide whether or not to extend the term of the voucher.

If administering assistance for a family porting in, WHA policies and procedures apply. WHA shall issue a voucher to the family. If the WHA will be administering assistance on behalf of a family porting in, the WHA shall issue a voucher to the family. The voucher size shall be determined by the WHA based on the WHA's subsidy standards. The term of this voucher may not expire earlier than thirty (30) calendar days from the expiration date of the initial PHA voucher. The family must submit a request for tenancy approval for an eligible unit to the WHA during the term of the voucher issued by the WHA. If such a request is submitted, the WHA shall suspend the term of that voucher. The WHA may grant extensions in accordance with this Plan. However, if the WHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and will bear in mind the billing deadline provided by the initial PHA. The WHA shall notify the initial PHA if the family has leased an eligible unit or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher. If the family decides not to lease-up in the WHA's jurisdiction, it must contact the initial PHA to request an extension.

The WHA does not re-determine eligibility for families porting in who were already assisted by the initial PHA. However, if an applicant family is porting in, they must be income eligible for admission to the voucher program in accordance with the WHA's eligibility criteria.

The WHA may opt to conduct a new reexamination for a current participant family if verification documents are missing, verification documents are older than 120 days, or there has been a change in the family's circumstances. If the WHA conducts a recertification, the WHA shall not delay issuing the family a voucher or delay approval of a unit. However, if prior to lease-up the WHA determines the family's income is such that there will be no subsidy paid on behalf of the family, the WHA shall refuse to enter into a contract on behalf of the family.

At any time, the WHA has the authority to deny or terminate assistance to the family in accordance with 24 C.F.R. §§ 982.552 and 982.553. If the WHA exercises such authority, it will provide the family with an opportunity for an informal review or hearing and notify the initial PHA.

If a portable family moves out of the HCV program of the WHA (if the WHA has not absorbed the family) the PHA in the new jurisdiction becomes the receiving PHA and the WHA is no longer required to provide assistance for the family.

## **10.2.3 Moves Within the Commonwealth**

All Massachusetts housing authorities have jurisdiction to administer the Housing Choice Voucher Program statewide. Accordingly, any family issued a voucher has the right to

## Moves with Continued Assistance and Portability

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lease a unit anywhere within the Commonwealth. The right of absorption is not applicable for a family issued a voucher by a Massachusetts housing authority if the family moves within the Commonwealth of Massachusetts and portability rules do not apply. However the issuing Massachusetts PHA may voluntarily agree to allow another Massachusetts housing authority to absorb a family. Absent such an agreement, the issuing PHA maintains control of, and responsibility for administering, the voucher. (See Memorandum *Jurisdiction of Massachusetts Public Housing Authorities that Administer the Housing Choice Voucher Program* from Donna J. Ayala, Director, U.S. Department of Housing and Urban Development, Office of Public Housing, New England (Jan. 18, 2002).

If a family is issued a voucher and wishes to utilize the voucher in a high rent area, and the local housing authority refuses to absorb the voucher, the WHA may deny permission to move if the WHA does not have sufficient funding for continued assistance.

If another Massachusetts housing authority requests the WHA to absorb their over-leased contracts, the WHA will only absorb such contracts if the participant and landlord are willing to enter into a new lease and contract for the assisted unit.

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# Reexaminations

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The WHA conducts an annual reexamination of each family's income and composition. The results of the reexamination are used to determine if the family remains eligible to receive assistance, establish the housing subsidy paid to the owner, and change the voucher size (if necessary). Between annual reexaminations, the family is responsible for reporting changes in family income and composition to the WHA. Based upon notification of such changes, the WHA may conduct an interim reexamination. This section discusses both annual and interim reexaminations. The terms "reexamination" and "recertification" are used interchangeably by the WHA.

## 11.1 ANNUAL REEXAMINATION

The annual reexamination date is the anniversary date of the HAP contract. Approximately ninety to one hundred and twenty (90-120) days prior to the annual reexamination date, the WHA will mail a recertification packet to the Head of Household. This packet contains the Application for Continued Participation, HUD-9886 (must be signed by the Head of Household, spouse, regardless of age, and all additional adults living in the household), HUD-92006, HUD-52675, EIV acknowledgement form, WHA General Release, WHA Certification form, and Guest Policy. The Head of Household must sign all forms, releases and certifications. Together with recertification packet, a notice is sent to the family explaining the recertification process, the time to return the documentation to the WHA and the verification documents required by the WHA. In general, the WHA requires income and asset verification for all household members, full-time student certification for household member over eighteen (18) claiming enrollment in school or college, proof of childcare expenses, and medical expenses for Elderly/Disabled households.

Within ten (10) days of the mailing of the recertification packet, the family must return the completed recertification forms and documents to the WHA Leased Housing Department. These forms and documents may be returned in person or by mail. The WHA does not accept recertification by fax or e-mail as original signatures are required. If a completed recertification packet is not returned to the WHA within the ten (10) days, the WHA will send a second notice to the family indicating the recertification is not complete and indicating a time to return the completed documentation. Failure to return a completed recertification to the WHA may result in subsidy termination. See Section 12.4.

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

The WHA does not allow self-declaration of assets (24 C.F.R. § 982.516 (a)(3)) or streamlined income determination (24 C.F.R. § 982.516 (b)).

### 11.1.1 Verification of Information

The WHA shall obtain and document third-party verification for family income, assets, expenses related to deductions, and other factors that affect the determination of adjusted income. The WHA uses HUD's Enterprise Income Verification (EIV) system as a third-party source to verify employment and income information. The WHA may also use

# Reexaminations

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additional third-party verification sources including direct verification with employer. If the information obtained by third-party sources does not align with the information provided by the family during the reexamination process, the family must provide verifiable documentation explaining the discrepancy. Failure to provide true and complete information to the WHA may result in subsidy termination. See Section 12.4.

## **11.1.2 Verification of Disability**

During the annual reexamination, the WHA will reexamine the qualifications of a person with disabilities as some disabilities are reversible. To receive the disability deduction, a person must meet HUD's definition of a disabled person. (Defined in 24 C.F.R. § 5.403). The disability must be verified. Receipt of social security benefits satisfies verification requirements. In the absence of such benefits, disability may be verified by letters regarding qualification for SSI payments, documents showing hospitalization for a disability, or a letter from a health or service professional or social worker.

## **11.1.3 Subsidy and Voucher Changes Due to Reexamination**

Once all reexamination documentation is submitted to the WHA, the WHA shall process the reexamination. Families and owners will be notified in writing of the results of the annual reexamination. The notice contains the total contract rent, family share, HAP, utility reimbursement and effective date. This notice will be sent at least thirty (30) days in advance of the annual recertification date. If the voucher size changes, the family will be sent notification. Some voucher size changes require a family to move if HQS will be violated. If the WHA errs in calculating the family share or voucher size which results in an overpayment of HAP, the family may be required to enter into a repayment agreement for fifty percent (50%) of the over-paid HAP.

## **11.1.4 Unreported Change of Income and/or Family Composition**

During a reexamination, the WHA may become aware of an income or household composition change that was not previously reported to the WHA. In such cases, the WHA may make a determination that there has been an overpayment of HAP. The family may be required to enter into a repayment agreement for the over-paid HAP. The discovery of unreported changes of an income or household composition may also result in subsidy termination. See Section 12.4

## **11.2 INTERIM REEXAMINATION**

An interim recertification occurs when there are certain changes to a family's income or other circumstances between annual recertifications. Depending on the change, the interim recertification may be a mandatory interim change or may be an optional interim change.

# Reexaminations

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## Mandatory Reporting:

A participant is required to report the following changes to the WHA between regular annual reexaminations:

1. Changes in the family composition;
2. A family member that previously reported not receiving any income begins to receive income from any source;
3. A household member has been added to the family as a result of birth, adoption, court ordered custody, marriage and an approved addition to the lease request.

All mandatory changes must be reported to the WHA within ten (10) days of the occurrence. Failure to report increases in household income will result in retroactive repayment agreements. In the most severe circumstances, the WHA may consider termination of the tenant's lease or program participation.

Increases in household income from a family member, resulting in an increased rent share, will be effective the first day of the month following the issuance of a 30-day notice of rent share increase by the WHA.

## Optional Reporting:

A participant may report the following change to the WHA between regular reexaminations:

1. A reduction in household income\*;
2. A family member with current income who experiences additional or increased income. (Families under the FSS Program may benefit from reporting the additional or increased income that may affect their escrow.)

\*HUD prohibits housing authorities from conducting an interim re-exam when a family reports a loss of welfare benefits due to fraud or failure to participate in a self-sufficiency or work activity.

Decreases in household income or composition, if reported, may result in a lower rent share payment for the month following the reported change.

# Reexaminations

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## 11.2.1 Change of Head of Household

The following procedure governs when there is a change of the Head of Household. For situations where there is a dispute as to who becomes the Head of Household see Section 11.2.2 A change of Head of Household requires a mandatory interim reexamination.

If the Head of Household no longer resides in the unit, either by choice or by death, a new Head of Household shall be selected, provided there is an eligible remaining household member. In the case of death, the WHA will determine the Head of Household. In other cases, the remaining household member(s) may select the new Head of Household.

If the Head of Household is relinquishing their rights to the subsidy, they must complete a Change Head of Household form. On this form they must designate who they desire to be named as Head of Household as well as provide verification of their new address.

If the Head of Household has died, the remaining household member(s) must complete a Change Head of Household form within fourteen days and attach a death certificate. If the Head of Household has died and all remaining household members are minors, the WHA may allow a temporary adult guardian to reside in the unit until a court-approved guardian is established. This new guardian may be added to the household composition as Head of Household and must be screened and approved by the WHA for eligibility under the program. Within fourteen days of the death, the guardian must obtain a letter of permission to be added to the lease from the landlord and must complete an Addition to Lease application. Extensions shall be granted on a case by case basis. If the guardian is determined ineligible, the housing assistance will terminate unless an eligible guardian can be determined.

If the Head of Household owed monies to the WHA, there must not be a delinquent balance on the account otherwise the WHA shall refuse to designate a new Head of Household. If the Head of Household owed monies to the WHA but there was no delinquency, then the Head of Household must either pay the balance in full or the new Head of Household must agree that they will assume the obligation for the debt. In the event of the death of the Head of Household, waiver of the balance may be granted by the WHA based upon the circumstances.

# Reexaminations

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A zero-HAP family will not be granted approval to designate a new Head of Household during the six-month grace period.

To be eligible to be named as the new Head of Household, the remaining household member must be:

- a. Listed as a household member for a period of one-year prior to the change of Head of Household (does not apply under VAWA);
- b. Eligible for the Program;
- c. CORI eligible;
- d. Compliant with income and asset verifications;
- e. Compliant with the Voucher and Lease;
- f. Free from violent criminal and drug-related criminal activity; and
- g. Free from violations of any federal housing program within the past five (5) years.

If approved, the new Head of Household will be briefed on the family obligations, sign a new voucher in their name, and, if applicable, assume the obligations of any existing debt to the WHA.

If all remaining household members are deemed ineligible, the former Head of Household and remaining members will receive a notice of termination of housing assistance in accordance with Section 12.4.

## **11.2.2 Family Break-Up**

A family break-up requires a mandatory interim reexamination. The following describes the WHA's family break-up policy. A family break-up occurs when a Head, Co-Head, or other adult household member(s) no longer reside together and there is a *dispute* as to who will retain the voucher/subsidy. By way of example and not limitation, a family break-up may occur when parties divorce, separate or there is court-issued protective order. When a family breaks up into two otherwise eligible families, only one of the new families shall retain the voucher/subsidy. In most cases, the WHA has discretion to determine which household member(s) will retain the original application date. 24 CFR 982.315(a)(1). It is the intent of this policy to provide guidance as to which new family will retain the original application date.

- a. Notice to the WHA:

# Reexaminations

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If a family break-up occurs, or will imminently occur, the family shall notify the WHA. Notification shall be made to the WHA as soon as reasonably possible. Together with notification, the WHA must receive written documentation of a family break-up. Written documentation may include but is not limited to signed statement(s) by adult household member(s), court order, documentation by a social service professional or clinician. The WHA may request additional documentation regarding the family break-up.

b. Agreement Amongst Adult Household Members:

If there was originally a dispute as to who would retain the voucher/subsidy and now all adult family members expressly agree as to which new family shall retain the voucher/subsidy, the WHA shall honor such agreement provided the new family remains eligible for the program. In the case of such agreement, all adult family members must certify this agreement to the WHA.

c. Court Determination:

If a court determines which new family will retain the voucher/subsidy by means of a divorce, separation under a settlement or a judicial decree, the WHA shall be bound by the court's decision.

d. WHA Determination:

In the absence of agreement amongst all adult family members or a court determination, the WHA will determine which family member(s) will continue to receive housing assistance. The WHA will evaluate each instance of family break-up on a case-by-case basis and will consider the individual circumstances of the family members.

If a family break-up occurs *because of* domestic violence, dating violence, sexual assault, or stalking as provided in 24 C.F.R. part 5, subpart L, the WHA will ensure the victim retains the housing assistance.

In all other cases, the WHA will consider the following factors (if applicable) in determining which family member(s) will retain the housing assistance:

- Whether assistance should remain with the family member(s) remaining in the original assisted unit;
- The interests of minor children;
- The interests of ill, elderly, or disabled family member(s);



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- Whether family member(s) are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking;
- Whether any family member(s) are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking as provide in 24 CFR part 5, subpart L, and whether the abuser is still in the household.
- The possible risks to family member(s) due to criminal activity;
- The recommendations of social service professionals and/or clinicians; and
- Other factors deemed relevant to the individual circumstances of the family member(s) by the WHA.

# Terminations and Hearings

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## 12.1 TERMINATION OF TENANCY BY THE OWNER

The owner may only terminate the tenancy in accordance with the lease and HUD requirements. However, the WHA does not require the owner to take action to terminate the tenancy for any reason. The owner's decisions and actions regarding termination of tenancy must not be contrary to the fair housing and equal opportunity provisions of 24 C.F.R. § 5.105.

During the term of the lease, the owner may not terminate the tenancy except on the following grounds:

- a. Serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease;
- b. Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises;
- c. Criminal activity or alcohol abuse as defined in Section 12.1.1 below; or
- d. Other good cause.

### 12.1.1 Criminal Activity or Alcohol Abuse

The lease must provide that the owner may terminate the tenancy for drug-related criminal activity engaged in by any tenant, household member, or guest on or near the premises; or other person under the tenant's control on the premises. The lease must also provide that the owner may terminate the tenancy when the owner determines that a household member is illegally using a drug; or a pattern of illegal drug use interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:

- a. 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);
- b. 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;
- c. Any violent criminal activity on or near the premises; or
- d. Any drug-related criminal activity (including use of a drug) on or near the premises.

# Terminations and Hearings

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The owner may also terminate the tenancy if the tenant is:

- a. Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- b. Violating a condition of probation or parole imposed under Federal or State law.

The owner may terminate tenancy and evict by judicial action a family for criminal activity (as covered by the tenancy addendum) in accordance with this section if the owner determines that the covered person has engaged in the criminal activity, regardless of whether the family or a member of the family has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

The owner may terminate the tenancy 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.

## 12.1.2 Other Good Cause

“Other good cause” for termination of the tenancy by the owner may include, but is not limited to any of the following examples:

- a. Failure by the family to accept the offer of a new lease or revision;
- b. A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises;
- c. 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
- d. 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 rental).

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. For example, during this period, the owner may not terminate the tenancy for “other good cause” based on any of the following grounds: 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. However, during the initial term of the lease, other good cause does include, but is not limited to: disturbance of neighbors,

# Terminations and Hearings

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destruction of property and living or housekeeping habits that cause damage to the unit or premises.

## **12.1.3 Termination Not Authorized**

Failure of the WHA to pay the housing assistance payment to the owner, or if the payment is late, are not violations of the lease between the tenant and the owner. Accordingly, during the term of the lease the owner may not terminate the tenancy of the family for nonpayment of the WHA housing assistance payment.

## **12.1.4 Notice by the Owner**

The owner must provide the tenant with a written notice that specifies the grounds for termination of the tenancy. The tenancy does not terminate before the owner has given this notice, and the notice must be given prior to or at the commencement of the eviction notice.

The owner must give the WHA a copy of any owner eviction notice to the tenant. An “eviction notice” shall mean a notice to vacate, or a complaint or other initial pleading used under State or local law to commence an eviction action. The family must also provide such eviction notice to the WHA. An owner may only evict by a court action.

The owner must also provide any additional documentation to the WHA after giving any owner eviction notice. This documentation shall include, but is not limited to, a Summons and Complaint, an Agreement for Judgment, a Judgment, the Execution, and a 48 Hour Notice.

## **12.1.5 HAP Assistance Payments**

Housing assistance payments terminate when the lease is terminated by the owner in accordance with the lease. However, if the owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, the WHA shall continue to make housing assistance payments to the owner until the owner obtains a court judgment or other process allowing the owner to evict the tenant. At the discretion of the WHA, the WHA may continue such payments until the family moves from or is evicted from the unit.

Notwithstanding the above paragraph, if the owner notifies the WHA that the participant has committed a serious or repeated violation of the lease, the WHA may take steps as described in Section 12.4 to terminate assistance for the family. If assistance for the family is terminated, the WHA will not make any further housing assistance payments beyond the effective date of the termination of assistance to the family.

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## 12.2 TERMINATION OF TENANCY BY THE FAMILY

The family may terminate the tenancy in accordance with the lease and the tenancy addendum. To terminate the tenancy, the family must provide written notice to the owner. At the same time the family provides such written notice to the owner, it must also provide a copy of the notice to the WHA. Failure to do so is a breach of family obligations under the program.

The family must notify the WHA and the owner before the family moves out of the unit. Failure to provide notification is a breach of family obligations under the program.

## 12.3 HAP CONTRACT TERMINATIONS

The HAP contract is a contract between the WHA and the owner. Sometimes the HAP contract terminates automatically and other times the WHA makes a determination to terminate the HAP contract. When the WHA terminates the HAP contract, it shall notify the owner and family in writing. The notice shall specify the effective date of the termination. Once the HAP contract terminates, the WHA makes no housing assistance payments to the owner.

### 12.3.1 Zero HAP Families

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner. The WHA will restart HAP payments if, within 180 days of the last HAP payment, the family notifies the WHA that its income has been reduced (or gross rent increased) to the point where the family's total tenant payment no longer covers the gross rent. Within the 180 days of the last HAP payment, the WHA may issue the family a voucher to move and continue to the benefits of the program if the WHA will make a HAP payment at the new unit.

### 12.3.2 Termination of Lease

The HAP contract terminates automatically if the lease is terminated by the owner or the tenant.

### 12.3.3 Owner Termination

Housing assistance payment terminate when the lease is terminated by the owner in accordance with the lease. However, if the owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, the WHA shall continue to make housing assistance payments to the owner until the owner obtains a court judgment or other process allowing the owner to evict the tenant. At the discretion of the WHA, the WHA may continue such payments until the family moves from or is evicted from the unit.

Notwithstanding the above paragraph, if the owner notifies the WHA that the participant has committed a serious or repeated violation of the lease, the WHA may take steps as

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described in Section 12.4 to terminate assistance for the family. If assistance for the family is terminated, the WHA will not make any further housing assistance payments beyond the effective date of the termination of assistance to the family.

## **12.3.4 Unit that is Too Small**

If the WHA determines that a unit does not meet the HQS space standards because of an increase in family size or change in family composition, the WHA will issue the family a new voucher, and the family and WHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the WHA shall terminate the HAP contract in accordance with its terms. The WHA shall notify 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 WHA gives such notice to the owner, and the family must move to the new unit.

## **12.3.5 Absence from the Unit**

Absence under this section shall mean that no member of the family is residing in the unit.

### **a. Family Absence of Up to Thirty (30) Days:**

A family may be absent from the unit for any reason up to thirty (30) consecutive calendar days.

### **b. Family Absence Greater than Thirty (30) Days:**

A family may not be absent from the unit for a period of more than thirty (30) consecutive calendar days without WHA written approval. If a family intends to be absent from the unit for a period of more than 30 consecutive calendar days, the family must request WHA approval in writing. Along with the request, the family must provide the reason for the absence along with supporting documentation. The WHA shall consider each request on an individual basis.

The WHA may approve family absence from the Unit for a period of more than (thirty) 30 consecutive calendar days for reasons including, but are not limited to, hospitalization, rehabilitation, imprisonment, military deployment, and vacation. Failure to request and receive WHA approval for a family absence of more than 30 consecutive calendar days may result in termination of assistance. See Section 12.4. A family must make arrangements for the maintenance of their unit and payments of rent and utilities during periods of approved absence. The WHA shall only permit family absence due to (criminal-related) incarceration for a period up to ninety (90) days.

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c. Family Absence Greater than One Hundred and Eighty (180) Days:

A family may not be absent from the unit for a period of more than one hundred and eighty (180) consecutive calendar days in any circumstance. If the family is absent from the unit for a period of more than 180 consecutive calendar days, the HAP Contract and the assisted lease shall terminate.

## 12.3.6 Owner Breach of Contract

The following actions by the owner (including a principal or other interested party) are considered a breach of the HAP Contract:

- a. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS;
- b. If the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- c. If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- d. 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 mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- e. If the owner has engaged in drug-related criminal activity; and
- f. If the owner has committed any violent criminal activity.

The WHA rights and remedies against the owner for owner breach of the HAP Contract include: recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP Contract. The WHA shall consider owner breach of the HAP Contract on a case-by-case basis and determine the appropriate remedy based upon the individual circumstances and severity of the breach of the Contract.

## 12.3.7 Insufficient Funds

The WHA may terminate the HAP Contract if the WHA determines, in accordance with HUD requirements, that funding under the consolidated Annual Contributions Contract (“ACC”) is insufficient to support continued assistance for families in the program. The

# Terminations and Hearings

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WHA will terminate such Contracts under this paragraph in accordance with HUD directives.

The WHA shall terminate HAP Contracts under this Section based upon the gross family income. The HAP Contracts will be terminated in order of highest gross income. Elderly families, disabled families, families under an agreement in the Homeownership program, and families currently enrolled in the FSS program shall be exempt.

The WHA will reissue a voucher to families, where the HAP contract has been terminated due to lack of funding only when funding is restored to levels adequate to support the resumption of additional HAP payments. The WHA will reissue vouchers, after the family has been determined eligible, in reverse order as the Contracts were cancelled (lowest to highest gross family income).

## 12.4 TERMINATION OF FAMILY ASSISTANCE

Due to a family's action or failure to act, the WHA may terminate assistance to participants by:

- a. Refusing to enter into a HAP contract;
- b. Refusing to approve a lease;
- c. Terminating the HAP contract; or
- d. Refusing to process or provide assistance under portability procedures.

When the WHA terminates the family's assistance, the lease and HAP contract terminate automatically. However, the owner may offer the family a separate unassisted lease.

### 12.4.1 Mandatory Termination of Assistance

The WHA must terminate assistance for the following reasons:

- a. If the WHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing;
- b. If the family is evicted\* from housing assisted under the program for serious violation of the lease\*\*;

\* A family is considered evicted if the family moves from the premises, voluntarily or forcibly, after the landlord obtains a judgment from the court.



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\*\* The WHA shall have discretion to determine whether the violation of the lease is serious.

If the owner has filed a Summary Process Summons and Complaint, the WHA will not allow the family to move until the matter is resolved through the judicial process and the WHA makes a determination of whether the violation of the lease was serious.

- c. If any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 C.F.R. part 5, subparts B and F;
- d. If a family member does not establish citizenship or eligible immigration status (termination of assistance shall be conducted in accordance with 24 CFR § 5.514);
- e. If any family member fails to meet the eligibility requirements concerning certain individuals enrolled at an institution of higher education (see section 4.4.5);
- f. If the family fails to disclose and document the complete and accurate social security number of each household member (see section 4.4.1); and
- g. If the WHA discovers that a member of an assisted household was subject to a lifetime sex offender registration at admission and was admitted after June 25, 2001. The WHA will offer the family an opportunity to remove the sex offender.

## 12.4.2 Discretionary Termination of Assistance

The WHA has the authority to terminate assistance for any of the following reasons:

- a. If the family violates any family obligations under the program (see section 12.4.3);
- b. If any member of the family has been evicted from federally assisted housing in the last five years;
- c. If a PHA has ever terminated assistance under the program for any member of the family;
- d. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;

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- e. If the family currently owes rent or other amounts to the WHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- f. If the family has not reimbursed any PHA for amount paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- g. If the family has breached an agreement with the WHA to pay amounts owed to the WHA, or amount paid to an owner by a PHA (the WHA, at its sole discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to the WHA or amounts paid to an owner by the WHA and the WHA may prescribe the terms of the agreement);
- h. If the family is participating in the FSS program and fails to comply, without good cause, with the family's FSS contract of participation;
- i. If the family has engaged in or threatened abusive or violent behavior toward WHA personnel;
- j. If a welfare-to-work family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program; and
- k. If the family has been engaged in criminal activity or alcohol abuse.

## 12.4.3 Family Obligations

Program participants must follow the Family Obligations. Violation of the Family Obligations by an act or a failure to act may result in termination of assistance. The following are the obligations of a participant family under the program:

- a. **Supplying Required Information:** The family must supply any information that the WHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 C.F.R. part 5). "Information" includes any requested certification, release or other documentation. The family must supply any information requested by the WHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements. The family must disclose and verify social security numbers (see section 4.4.1) and must sign and submit consent forms for obtaining information in accordance with 24 C.F.R. part 5, subparts B and F. Any information supplied by the family must be true and complete.

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- b. **HQS Breach Caused by Family:** The family is responsible for an HQS breach caused by the family as described in 24 C.F.R. § 982.404(b).
- c. **Allowing WHA Inspection:** The family must allow the WHA (or its designee) to inspect the unit at reasonable times and after reasonable notice.
- d. **Violation of Lease:** The family may not commit any serious or repeated violation of the lease. Under 24 C.F.R. § 5.2005(c)(1), an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated lease violation by the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.
- e. **Family Notice of Move or Lease Termination:** The family must notify the WHA and the owner before the family moves out of the unit, or terminates the lease on notice to the owner. See 24 C.F.R. § 982.354(d).
- f. **Owner Eviction Notice:** The family must promptly give the PHA a copy of any owner eviction notice.
- g. **Use and Occupancy of Unit:** The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The composition of the assisted family residing in the unit must be approved by the WHA. The family must promptly inform the WHA of the birth, adoption or court-awarded custody of a child. The family must request WHA approval to add any other family member as an occupant of the unit. No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a foster child or live-in aide as provided below). The family must promptly notify the WHA if any family member no longer resides in the unit. If the WHA has given approval, a foster child or a live-in-aide may reside in the unit. The WHA has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in-aide, and defining when WHA consent may be given or denied. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. The family must not sublease or let the unit. The family must not assign the lease or transfer the unit.
- h. **Absence from Unit:** The family must supply any information or certification requested by the WHA to verify that the family is living in the unit, or relating to family absence from the unit, including any WHA-requested information or certification on the purposes of family absences. The family must cooperate with the WHA for this purpose. The family must promptly notify the WHA of absence from the unit.

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- i. Interest in Unit: The family must not own or have any interest in the unit.
- j. Fraud and Other Program Violation: The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
- k. Crime by Household Members: The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see 24 C.F.R. § 982.553). Under 24 C.F.R. § 5.2005(b)(2), criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual is the victim or threatened victim.
- l. Alcohol Abuse by Household Members: The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- m. Other Housing Assistance: An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

### 12.4.4 Termination of Assistance for Criminals and Drug and Alcohol Abusers

The WHA may terminate assistance if the WHA determines the presence of any of the following by a household member:

- a. Current illegal drug use;
- b. Pattern of illegal drug use that interferes with the health, safety, or right to enjoyment of the premises by other residents;
- c. Violation of family's obligation not to engage in any drug-related criminal activity;
- d. Violation of family's obligation not to engage in any violent criminal activity;  
or

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- e. Abuse or pattern of abuse of alcohol that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

The WHA may terminate assistance for criminal activity if the WHA determines that the household member engaged in such activity, based on the preponderance of the evidence standard. The WHA may terminate regardless of whether the household member has been arrested or convicted.

The WHA may terminate assistance due to criminal activity of a guest or other person under the tenant's control if the activity constitutes a serious or repeated violation of the lease.

In terminating assistance under this section, the WHA will consider all credible evidence, including, but not limited to, evidence of participation in, or successful completion of a drug or alcohol rehabilitation program, evidence that the individual(s) no longer possesses or uses a controlled substance, and whether the individual is still a member of the household.

## **12.4.5 Fraud and HAP Overpayments**

If a participant fails to accurately report his/her family composition and income information or falsely verifies said information resulting in the WHA overpaying HAP on his or her behalf the participant must repay these monies to the WHA. Based upon the circumstances, the WHA may either terminate assistance for the family or allow the family to remain a participant of the program if the participant repays the money owed to the WHA.

The WHA calculates over-paid HAP by either recalculating previous rent changes and incorporating the unreported income to determine what the actual HAP should have been or calculating thirty percent (30%) of the amount determined unreported. The WHA will decide which method to use based upon the documentation provided.

If the participant is responsible for the over-payment, the participant is responsible for one hundred percent (100%) of the total over-paid HAP. If the WHA made an administrative error that resulted in an over-paid HAP, the participant will be responsible for the fifty percent (50%) of the over-paid HAP.

Once an over-payment is calculated, the WHA will send an invoice to the participant. The participant shall have ten (10) days to either enter into a repayment agreement that is acceptable to the WHA or request in writing a review of the calculation of the over-paid HAP. In the alternative, the participant must pay the entire HAP in full within thirty (30) days of the invoice.

If the participant chooses to enter into a repayment plan, the WHA requires a down-payment of \$100.00 (one hundred dollars) or ten percent (10%), whichever is greater. If

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the over-paid HAP was due to an administrative error, no initial down-payment will be required. Monthly repayment amounts shall be determined by the WHA. Except for cases of hardship, repayment agreements shall not exceed twenty-four (24) months. In the case of hardship, elderly, or disabled participants, the WHA may approve repayment agreements of thirty-six (36) months. The WHA shall only approve repayment agreements of forty-eight (48) months in cases of extreme hardship.

If a participant misses three (3) monthly payments during the term of the repayment agreement, he/she is in default of the agreement and the WHA will proceed with termination upon notice to the participant. If the participant pays the entire debt in full or the participant becomes current with the repayment agreement, prior to the date of the termination hearing, the WHA may withdraw its proposed termination.

The WHA will not allow any participant to move if they have an outstanding invoice and have not entered into a repayment agreement or if they are not current on their repayment agreement.

The WHA is not obligated to enter into a repayment agreement with a participant. If a participant's assistance is terminated and or a participant has failed to abide by any repayment agreement, the WHA may take all necessary steps to collect monies owed including referring the matter to a third party debt collector, reporting monies owed to EIV and or legal action.

### **12.4.6 Absence from the Dwelling Unit**

This section deals with individual family member absence from the dwelling unit. For "family absence" from the dwelling unit (where no member of the family is residing in the unit), see Section 12.3.5.

An individual family member who is absent or who is expected to be absent from the unit for a period of less than one hundred and eighty (180) days in a calendar year shall be considered temporarily absent from the unit. An individual family member, who is absent or who is expected to be absent from the unit for a period of greater than one hundred and eighty (180) days in a calendar year, shall be considered permanently absent from the unit. If the family consists only of one (1) family member, refer to Section 12.3.5.

The WHA will include the income, assets, and/or applicable deductions of temporarily absent family members in the calculation of the family's TTP. Family members who are permanently absent will be removed from the household composition. The family must promptly report any family member who is absent or is expected to be absent from the unit for a period of greater than one hundred and eighty (180) days in a calendar year. Failure to report such information may result in termination of assistance for the family. Additional criteria and/or exceptions apply based upon certain reasons for absence from the unit:

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a. Absence Due to Medical Reason:

Absences due to hospitalization, placement in a rehabilitation facility, or other similar long-term care will be considered on a case-by-case basis. Based upon the documentation submitted by the family concerning when the family member is expected to return the unit, the WHA may allow such a family member to remain on the household composition beyond the one hundred and eighty (180) day period.

b. Absence Due to Full-Time Student Status:

A full-time student who is absent from the unit during the school year shall be considered a Family member unless the student has established another residence. For the purpose of this section, another residence shall not mean temporary housing such as a dormitory. If the full-time student is a Family member other than the Head of Household or their spouse, the student's earnings in excess of \$480.00 will not be included in the calculation of the Family's TTP.

c. Absence Due to (Criminal-Related) Incarceration:

A Family member who is incarcerated for a period of ninety (90) consecutive days or more shall be considered permanently absent from the unit.

d. Absence Due to Placement in Foster Care:

A child who is temporarily placed in foster care is considered a family member, regardless of the length of time they are absent from the unit. Therefore, the income, assets, and/or applicable deductions for the child who has been placed in foster care will be included in the calculation of the family's TTP. The WHA will verify with the Massachusetts Department of Children and Families whether the child has been temporarily or permanently removed from the home.

e. Absence Due to Military Deployment or Active Service:

This section applies to those individuals who are deployed or called to active service and will not be residing in the unit. If the entire family will be absent from the unit due to deployment or active service, refer to Section 12.3.5.

An individual family member, who is not the sole family member, who has been deployed or called to active duty, shall not be considered permanently absent from the unit unless they have been removed from the household composition by the Head of Household. Such individual may be absent from

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the unit for the entire time period of their deployment or active service status, regardless of the length of time they are absent from the unit.

The income, assets, and/or applicable deductions of the individual family member under this section will be included in the calculation of the family's TTP. However, "hostile fire" pay shall not be included in this calculation.

If the Head of Household is being deployed and is the only adult member of the household and is leaving dependents in the assisted unit, the WHA will allow a suitable guardian to move into the assisted unit on a temporary basis to care for the dependents that the military member left in the unit. Income of the guardian temporarily living in the unit solely for this purpose is not counted in determining family income. The suitable guardian must be a relative of the dependent(s), aged 18 years or older, or be a court appointed legal guardian. The suitable guardian must be CORI eligible to reside in the assisted unit. The Head of Household must provide proof of deployment. The suitable guardian can move into the unit no more than two weeks prior to deployment and must vacate the unit in not more than thirty (30) day from the time the Head of Household returns.

## 12.4.7 Consideration of Circumstances

In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

- a. The WHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure;
- b. The WHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The WHA may permit the other members of a participant family to continue receiving assistance;
- c. In determining whether to terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the WHA 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 WHA may require the participant to submit evidence of the household member's current participation in, or



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successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully; and

- d. If the family includes a person with disabilities, the WHA decision concerning such action is subject to consideration of reasonable accommodation.

## 12.4.8 Procedure for Terminating Assistance

If the WHA is considering proposing the termination of assistance, the WHA may request a meeting with the participant to discuss their continued participation in the program. The WHA may also move to propose the termination of assistance without a meeting with the participant.

If the WHA is proposing termination of housing assistance, a notice of proposed termination will be sent by mail to the participant. The notice will contain a brief statement of the reason for proposed termination. This notice also informs the participant of their right to request an Informal Hearing if they disagree with the decision. The notice contains the effective date of proposed termination. At the same time this notice is sent, the WHA sends notice to the owner of WHA's intent to terminate the HAP Contract.

To request an Informal Hearing, the participant must send a written request for an Informal Hearing within ten (10) days of the notice of proposed termination. If no request for an Informal Hearing is received by the WHA within fifteen (15) days of the notice of proposed termination, the WHA shall terminate assistance for the participant on the effective date contained in the notice of proposed termination.

If the participant submits a timely written request for an Informal Hearing, a Hearing will be scheduled and written notice of the Hearing will be sent to the participant. The notice of Informal Hearing also explains the participant's rights to examine the file, obtain counsel, and bring witnesses.

## 12.5 INFORMAL HEARINGS

### 12.5.1 When a Hearing is Required

The WHA must give a participant family an opportunity for an Informal Hearing to consider whether the following WHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and WHA policies:

- a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;

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- b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule;
- c. A determination of the family unit size under the WHA subsidy standards;
- d. A determination to terminate assistance for a participant family because of the family's action or failure to act;
- e. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under WHA policy and HUD rules.

## 12.5.2 When a Hearing is not Required

The WHA is not required to provide a participant family an opportunity for an Informal Hearing for any of the following:

- a. Discretionary administrative determinations by the WHA;
- b. General policy issues or class grievances;
- c. Establishment of the WHA schedule of utility allowances for families in the program;
- d. A WHA determination not to approve an extension of the voucher term;
- e. A WHA determination not to approve a unit or tenancy;
- f. A WHA determination that an assisted unit is not in compliance with HQS. (However, the WHA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 C.F.R. § 982.551(c).);
- g. A WHA determination that the unit is not in accordance with HQS because of the family size;
- h. A determination by the WHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

## 12.5.3 Informal Hearing Procedures

The WHA will hold Informal Hearings and issue decisions promptly. Informal Hearings shall be conducted by any person or persons designated by the WHA, other than a person who made or approved the decision under review or a subordinate of this person.

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Prior to the Informal Hearing, the family shall be given the opportunity to examine any documents that are directly relevant to the hearing. Photocopies of such documents shall be made upon request at the expense of the family. If the WHA does not make a document available for examination on request of the family, the WHA may not rely on the document at the Hearing. The WHA may request the opportunity to examine at WHA offices, prior the Hearing, any family documents that are directly relevant to the Hearing. If the family does not make such a document available upon request by the WHA, the family may not rely on the document at the Hearing.

At its own expense, the family may be represented by a lawyer or other representative.

The WHA and the family shall be given the opportunity to present evidence and question witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The person who conducts the Hearing shall issue a written decision, stating briefly the reasons for the decision. Factual determination relating to the individual circumstances of the family shall be based on the preponderance of the evidence presented at the Hearing. The written decision shall be mailed to the family at the last known address for the family on record with the WHA.

# Project-Based Vouchers

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## 13.1 PROJECT-BASED VOUCHERS

The WHA administers the Project-Based Voucher Program (“PBV”) in accordance with federal regulations, specifically 24 C.F.R. part 982 and 24 C.F.R. part 983, as well as State and local law.

### 13.1.1 Description of the PBV Program

The PBV Program is funded from the Voucher Annual Contributions Contract (ACC) between the WHA and HUD. Project-based means that the subsidy is attached to the unit, whereas tenant-based assistance allows the tenant to move with the subsidy (see difference between project-based and tenant-based assistance at 24 C.F.R. § 982.1(b)).

The WHA enters into a HAP Contract with an owner for units in existing housing or in newly constructed or rehabilitated housing.

When the PBV housing is new construction or rehabilitation, the housing is developed under an Agreement to enter into a Housing Assistance Payments (“AHAP”) contract between the WHA and the owner.

During the term of the HAP Contract the WHA makes payments to the owners for units leased and occupied by eligible families.

### 13.1.2 Goal of the PBV Program

It is the goal of the WHA to make project-based rental subsidies accessible so interested and eligible families can afford safe, decent and sanitary housing; to provide the services with integrity and mutual accountability; and to create housing situations which will serve as catalysts for the transformation from dependence to economic self-sufficiency. It is also the goal of the PBV program to create new affordable housing resources.

### 13.1.3 Maximum Amount of PBV Assistance

The WHA may project-base up to twenty percent (20%) of the annual budget authority allocated to the WHA by HUD in the Voucher program. In calculating twenty percent (20%), the WHA will use the amount of funding available at the time of the allocation of the Project Based Vouchers. The WHA is not required to reduce the number of units selected under a HAP Contract or an Agreement if the amount of the budget authority is subsequently reduced.

## 13.2 SELECTION OF PBV OWNER PROPOSALS

### 13.2.1 Owner Proposal Selection Procedures

The WHA may use one of the two following methods to select owner proposals:

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- a. The WHA may publicly issue a competitive request for PBV proposals. The WHA may not limit a Request for Proposal (RFP) to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

The WHA will publish a RFP in a newspaper of general circulation and will make the RFP available on its web site ([www.worcester-housing.com](http://www.worcester-housing.com)). The public notice must specify the submission deadline. The WHA will provide detailed application and selection criteria at the request of interested parties.

- b. The WHA may determine to provide PBV funding to a 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 Low Income Housing Tax Credits have been provided), where the proposal has already been selected in accordance with such program's competitive selection requirements within three years of the WHA's PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive WHA PBV assistance.

## 13.2.2 Site Selection Standards

The WHA's site selection standards must comply with PBV goals, civil rights requirements, and HQS.

The WHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP Contract for Units on the site, unless the WHA has determined that:

- a. Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the WHA Annual Plan, the WHA Administrative Plan, and 24 C.F.R. part 903. In developing the standards to apply in determining whether a proposed PBV development will be selected, the WHA shall consider the following:
  - Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
  - Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;

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- Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;
  - Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement for the deconcentration of poverty at 24 C.F.R. part 903;
  - Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;
  - If the poverty rate in the area where the proposed PBV development will be located is greater than twenty percent (20%), the WHA may consider whether in the past five years there has been an overall decline in the poverty rate;
  - If the poverty rate in the area where the proposed PBV development will be located is greater than forty percent (40%), the WHA may require the developer to submit comprehensive evidence including, but not limited to; specific economic development data of the subject census tract and neighboring census tracts to provide the most complete and accurate assessment of the current economic status of the area as possible; and
  - Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located;
- b. The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d-2000d(4)) and HUD's implementing regulations at 24 C.F.R. Part 1; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601-3629); and HUD's implementing regulations at 24 C.F.R. Parts 100 through 199; Executive Order 11063 (27 FR 11527; 3 C.F.R., 1959-1963 Comp., p. 652) and HUD's implementing regulations at 24 C.F.R. Part 107. The site must meet the section 504 site selection requirements described in 24 C.F.R. § 8.4(b)(5); and
- c. The site meets the HQS site standards at 24 C.F.R. § 982.401(l).

## 13.2.3 WHA PBV Site Selection Policy

Each prospective WHA PBV site applicant must demonstrate to the WHA that their respective project satisfies the goals of deconcentrating poverty and expanding housing and economic opportunity, regardless of the project's poverty rate as defined by the most

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recent census data. The WHA will make its assessment of an applicant project's compliance with achieving these goals based on the totality of the applicant's response, taking into consideration the target population to be served (i.e., Family, Elderly, Disabled, and populations needing supportive services).

The WHA will also further assess each proposal to determine if they achieve the following WHA Agency Plan objectives:

- a. Development and maintenance of an adequate supply of safe, decent housing that is affordable to residents with a range of income levels and household needs;
- b. Assurance that a resident with long term support needs have access to appropriate services and accessible community and housing options; and
- c. Assurance of full and fair access to housing for all residents.

## **13.2.4 Subsidy Layering Review (SLR) Prohibition of Excess Public Assistance**

The SLR is intended to prevent excessive public assistance for the housing by combining (layering) housing assistance subsidy under the PBV program with other governmental assistance from federal, state, or local agencies, including but not limited to, assistance such as tax concessions or tax credits.

The WHA shall obtain from the applicant all the information required by the HUD mandated SLR checklist. The WHA must review the SLR package prepared by the applicant for its completeness and consistency with program requirements. If it appears complete and acceptable, the WHA shall forward the SLR package to HUD's Boston office. The HUD Boston office will also review the material and if found acceptable, submit it to HUD Headquarters for final review and approval.

## **13.2.5 Cap on Number of PBV Units in Each Building**

The WHA may not select a proposal to provide PBV assistance for units in a building or enter into an Agreement or HAP Contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance is more than twenty-five percent (25%) of the number of units (assisted or unassisted) in the building, unless the building qualifies for an exception.

The following are exceptions to twenty-five percent (25%) per building cap:

- a. Units in a single-family building (a building with no more than four dwelling units); and
- b. Units in a multifamily building that are specifically made available for elderly or disabled families or families receiving supportive services.

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The WHA may require a ninety percent (90%) per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units.

## 13.2.6 Families Receiving Supportive Services

Supportive services that qualify for an exception are those services that assist a person with a medical condition or disability or services that assist a family in becoming self-sufficient. Examples of supportive services that qualify for an exception include but are not limited to:

- a. Household Training (e.g., homemaking, parenting skills, money management);
- b. Job Training (e.g., preparation and counseling, job development and placement, follow-up assistance after job placement, completion of FSS Contract of Family Participation);
- c. Services and Resources (appropriate to assist families to achieve economic independence and self-sufficiency);
- d. Child Care (provide sufficient hours of operation and serve an appropriate range of ages);
- e. Counseling for parents and other kinship relations caring for children with special needs (programs for families adopting children from MA Department of Social Services (DSS), foster care programs, Grand-family programs);
- f. Vocational/Educational opportunities (education for the completion of Secondary or post-secondary education);
- g. Substance Abuse Treatment (counseling and treatment for substance abuse, drug or alcohol);
- h. Transportation for activities such as, (but not limited to) grocery shopping, job training, education, attending medical and dental appointments, etc;
- i. Computer access and training/library access;
- j. Access to on-site/off-site social activities;
- k. Case management services and/or counseling;
- l. Access to Health and Psychiatric Services, i.e. nurse/medical staff, mental health professional, etc.; and



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m. Supervised taking of medication.

It is not necessary that the services be provided at or by the project, if they are WHA approved/qualified services. A qualifying family must have at least one (1) member receiving at least one (1) qualifying supportive service. The WHA may not require participation in medical or disability-related services as a condition of living in an excepted unit, other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the WHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

If a family in an excepted unit fails without good cause to complete its FSS contract of participation or if the family fails to complete the supportive services requirement as outlined in this Administrative Plan, the WHA will take the actions provided under 24 C.F.R. § 983.261(d), and the owner may terminate the lease in accordance with 24 C.F.R. § 983.257.

At the time of initial lease execution, the family and the WHA must sign a statement of family responsibility. The statement of family responsibility must contain all family obligations including the family's participation in a service program under this section. Failure by the family without good cause to fulfill its service obligation will require the assistance.

If the unit at the time of such termination is an excepted unit, the exception continues to apply to the unit as long as the unit is made available to another Qualifying Family as defined in 24 C.F.R. § 983.56(b)(ii).

Providers of supportive services are obligated to report to the WHA regarding any changes in the supportive services at least on annual basis. The WHA may request more frequent reports from supportive service agencies at its discretion. A supportive service agency must inform the WHA immediately when a family fails to meet their supportive service requirements.

In leasing units in a multifamily building pursuant to the PBV HAP, the owner must set aside the number of excepted units made available for occupancy by qualifying families. The WHA may refer only qualifying families for occupancy of excepted units.

## **13.2.7 Environmental Review**

The local governmental unit responsible (RE or Responsible Entity) for the federal environmental review under the National Environmental Protection Act (NEPA) of 1969 (42 U.S.C. § 42331 et. Seq.) will conduct environmental reviews in connection with the

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project-based program. If the responsible entity declines to do the review then HUD may perform the environmental review itself.

a. Existing Housing:

- The RE will determine whether the existing building is excluded from environmental review. The RE will also determine whether or not the assistance is subject to review under the laws and authorities under 24 C.F.R. § 58.5.

b. The WHA may not enter into an Agreement or HAP Contract with an owner, and the WHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the following HUD environmental requirements are met:

- The RE entity has completed the environmental review and HUD has approved the environmental certification and request for release of funds;
- The RE has determined that the project to be assisted is exempt from an environmental review or is categorically excluded and not subject to compliance with environmental laws under 24 C.F.R. § 58.35(b); or
- HUD has performed an environmental review and has notified the WHA in writing of environmental approval of the site.

c. Mitigating Measures:

- The WHA must require the owner to carry out mitigating measures required by the RE or required by HUD.

d. Verification:

- The WHA will keep verification of the review or verification of the exemption in the WHA file for the building.

## 13.2.8 WHA-Owned Units

The selection of WHA-owned Units must be done in accordance with 24 C.F.R. § 983.51(e) and this Administrative Plan. The following additional requirements apply to WHA-owned units:

a. Inspection and determination of reasonable rent by independent entity:

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- The WHA will have the units inspected by an independent entity to be sure the units meet the requirements of HQS and Chapter II of the State Sanitary Code.
- The WHA will have the reasonable rent determined by a HUD-approved appraisal or, by a licensed HUD approved appraiser by a licensed state certified appraiser.

b. Nature of Independent Entity:

- The independent entity that performs these program services may be the Unit of general local government for the WHA jurisdiction (unless the WHA is itself the Unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

c. Payment to independent entity and appraiser:

- The WHA may only compensate the independent entity and appraiser from WHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The WHA may not use other program receipts to compensate the independent entity and appraiser for their services.
- The WHA, independent entity, and appraiser may not charge the Family any fee for the appraisal or the services provided by the independent entity.

## 13.3 DWELLING UNITS

### 13.3.1 Housing Accessibility for Persons with Disabilities

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 C.F.R. part 8. The WHA shall ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as implemented by HUD's regulations at 24 C.F.R. Part 8, Subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 C.F.R. § 100.205, as applicable.

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## 13.3.2 Inspecting Units

### a. Pre-Selection Inspections:

- The WHA must examine the proposed site before the proposal selection date.
- If the units to be assisted already exist, the WHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with the HQS. To qualify as existing housing, units must substantially comply with the HQS on the proposal selection date. However, the WHA may not execute the HAP Contract until the units fully comply with HQS.

### b. Pre-HAP Contract Inspections:

- The WHA must inspect each contract unit before execution of the HAP Contract. The WHA may not enter into a HAP Contract covering a unit until the unit fully complies with the HQS.

### c. Turnover Inspections:

- Before providing assistance to a new family in a contract unit, the WHA must inspect the unit. The WHA may not provide assistance on behalf of the family until the unit fully complies with the HQS.

### d. Annual Inspections:

- At least annually during the term of the HAP Contract, the WHA must inspect a random sample, consisting of at least twenty percent (20%) of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections pursuant to paragraph (c) of this section are not counted toward meeting this annual inspection requirement.
- If more than twenty percent (20%) of the annual sample of inspected contract units in a building fail the initial inspection, the WHA must re-inspect one hundred percent (100%) of the contract units in the building.

### e. Other Inspections:

- The WHA must inspect contract units whenever needed to determine that the contract units comply with the HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The WHA must take into account complaints and

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any other information coming to its attention in scheduling inspections.

- The WHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family in violation of the HQS.
- In conducting WHA supervisory quality control HQS inspections, the WHA should include a representative sample of both tenant-based and project-based units.

f. Inspecting WHA-Owned Units:

- In the case of WHA-owned units, the inspections required under this section must be performed by an independent agency rather than by the WHA.
- The independent entity must furnish a copy of each inspection report to the WHA and to the HUD field office where the project is located.
- The WHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP Contract by the WHA owner.

### **13.3.3 Requirements for Rehabilitated and Newly Constructed Units**

An owner or project sponsor, must enter into an Agreement to Enter into a Housing Assistance Payments contract (AHAP) before any demolition, construction, or rehabilitation takes place. This requirement only applies to non-existing PBV Units.

### **13.3.4 Purpose and Content of the Agreement to Enter into a HAP Contract**

The WHA must enter into an Agreement (AHAP) with the owner to enter in a HAP Contract.

In the Agreement the owner agrees to develop the contract units to comply with the HQS, and the WHA agrees that, upon timely completion of such development in accordance with the terms of the Agreement, the WHA will enter into a HAP Contract with the owner for the contract units.

The AHAP must describe the following features of the housing to be developed (newly constructed or rehabilitated) and assisted under the PBV program:

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- a. Site and evidence of site control;
- b. Location of contract units on site;
- c. Number of contract units by area (size) and number of bedrooms and bathrooms;
- d. Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- e. Utilities available to the contract units, including a specification of utility services to be paid by owner (without charges in addition to rent) and utility services to be paid by the tenant;
- f. Indication of whether or not the design and construction requirements of the Fair Housing Act and implementing regulations at 24 C.F.R. § 100.205 and the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 C.F.R. §§ 8.22 and 8.23 apply to units under the Agreement. If these requirements are applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement, as specified in this section.
- g. Initial rents to owner for the contract units; and
- h. Description of the work to be performed under the Agreement. If the Agreement is for rehabilitation of units, the work description must include the rehabilitation work write up and, where determined necessary by the WHA, specifications, and plans. If the Agreement is for new construction, the work description must include the working drawings and specifications.

The WHA may also establish, in the AHAP, additional requirements for quality, architecture, or design of PBV housing, over and above the minimum requirements of HQS.

## **13.3.5 Conduct of New Construction and Rehabilitation Work**

- a. Development Requirements:
  - The owner must carry out development work in accordance with the Agreement and the requirements of this section.

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## b. Labor Standards:

- In the case of an Agreement for development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in development of the housing.
- The HUD prescribed form of Agreement shall include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.
- The owner and the owner's contractors and subcontractors must comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 C.F.R. part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

## c. Equal Opportunity:

- The owner must comply with federal equal employment opportunity requirements of Executive Orders 11246 as amended (3 C.F.R., 1964-1965 Comp., p. 339), 11625 (3 C.F.R., 1971-1975 Comp., p. 616), 12432 (3 C.F.R., 1983 Comp., p. 198) and 12138 (3 C.F.R., 1977 Comp., p. 393).
- The Agreement and HAP Contract shall include a certification by the owner that the owner and other project principals (including the officers and principal members, shareholders, investors, and other parties having a substantial interest in the project) are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.
- The owner must disclose any possible conflict of interest that would be a violation of the Agreement, the HAP Contract, or HUD regulations.

### 13.3.6 Completion of Housing

#### a. Completion Deadline:

- The owner must develop and complete the housing in accordance with the Agreement. The Agreement must specify the deadlines for completion of the housing and for submission by the owner of the required evidence of completion.

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b. Required Evidence of Completion:

- At a minimum, the owner must submit to the WHA in the form and manner required by the WHA, owner certification that the work has been completed in accordance with the HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

c. Additional Documentation:

- At the discretion of the WHA, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion. For example, such documentation may include:
  - o A certificate of occupancy or other evidence that the units comply with local requirements (such as code and zoning requirements); or
  - o An architect's certification that the housing complies with HUD housing quality standards; state, local, or other building codes; zoning; the rehabilitation work write-up (for rehabilitated housing) or the work description (for newly constructed housing); or any additional design or quality requirements pursuant to the Agreement.

d. WHA Determination of Completion:

- When the WHA has received owner notice that the housing is completed the WHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with the HQS and any additional requirement imposed by the WHA under the Agreement.
- The WHA must determine if the owner has submitted all required evidence of completion.
- If the work has not been completed in accordance with the Agreement, the WHA must not enter into the HAP Contract.
- If the WHA determines that the housing has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the WHA must submit the HAP



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Contract for execution by the owner and must then execute the HAP Contract.

## 13.4 HOUSING ASSISTANCE PAYMENTS CONTRACT

### 13.4.1 Purpose of the HAP Contract

The purpose of the HAP Contract is to provide housing assistance payments for eligible families. The WHA makes housing assistance payments to the owner in accordance with the HAP Contract. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP Contract term.

### 13.4.2 HAP Contract Information

The HAP Contract must specify:

- a. The total number of contract units by number of bedrooms;
- b. Information needed to identify the site and the building or buildings where the contract units are located. The information must include the project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- c. Information needed to identify the specific contract units in each building. The information must include the number of contract units in the building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- d. Services, maintenance, and equipment to be supplied by the owner without charges in addition to the rent;
- e. Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;
- f. Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 C.F.R. part 8;
- g. The HAP Contract term;
- h. The number of units in any building that will exceed the twenty-five percent (25%) per building cap (as described in 24 C.F.R. § 983.56), which will be set-aside for occupancy by Qualifying Families; and

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- i. The initial rent to owner (for the first twelve (12) months of the HAP Contract term).

## **13.4.3 When HAP Contract is Executed**

Before execution of the HAP Contract, the WHA must inspect each contract unit in accordance with 24 C.F.R. § 983.103(b). The WHA may not enter into a HAP Contract for any contract unit until the WHA has determined that the unit complies with the HQS.

In the case of newly constructed or rehabilitated housing the HAP Contract shall be executed after the WHA has inspected the completed units and has determined that the units have been completed in accordance with the Agreement and the owner has furnished all required evidence of completion (see 24 C.F.R. §§ 983.155 and 983.156).

In the HAP Contract, the owner certifies that the units have been completed in accordance with the Agreement. Completion of the units by the owner and acceptance of units by the WHA is subject to the provisions of the Agreement.

## **13.4.4 Term of HAP Contract**

### a. Initial Term:

- The WHA may enter into a HAP Contract with an owner for an initial term of up to fifteen years for each contract unit. The length of the term of the HAP Contract for any contract unit may not be less than one year, nor more than fifteen years.

### b. Extension of Term:

- Within one year before expiration, the WHA may agree to extend the term of the HAP Contract for an additional term of up to five years if the WHA determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

### c. Termination by WHA for Insufficient Funding:

- The HAP Contract must provide that the term of the WHA's contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by the WHA in accordance with HUD instructions. For purposes of this section, "sufficient funding" means the availability of appropriations, and of funding under the ACC from such appropriations, to make full

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payment of housing assistance payments to the owner for any contract year in accordance with the terms of the HAP Contract.

- The availability of sufficient funding must be determined by HUD or by the WHA in accordance with HUD instructions. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP Contract, the WHA has the right to terminate the HAP Contract by notice to the owner for all or any of the contract units. Such action by the WHA shall be implemented in accordance with HUD instructions. The WHA reserves the right to exercise full and unencumbered discretion as to which HAP Contract may or may not be terminated due to insufficient funding, including all PBV contracts in those areas not specifically referenced by a HUD directive.

d. Termination by Owner for Reduction of Rent Below Initial Rent:

- The owner may terminate the HAP Contract, upon sixty (60) day notice to the WHA, if the amount of the rent to owner for any contract unit, as adjusted in accordance with 24 C.F.R. § 983.302, is reduced below the amount of the initial rent to owner (rent to owner at the beginning of the HAP Contract term). In this case, the assisted families residing in the contract units will be offered tenant-based voucher assistance.

## 13.4.5 HAP Contract Amendments

a. Amendment to Substitute Contract Units:

- At the discretion of the WHA and subject to all PBV requirements, the HAP Contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Prior to such substitution, the WHA must inspect the proposed substitute unit and must determine the reasonable rent for such unit.

b. Amendment to Add Contract Units:

- At the discretion of the WHA, and provided that the total number of units in a building that will receive PBV assistance or other project-based assistance will not exceed twenty-five percent (25%) of the number of dwelling units (assisted or unassisted) in a non-exception building or the twenty percent (20%) of authorized annual budget authority as provided in 24 C.F.R. § 983.6, a HAP Contract may be amended during the three-year period immediately following the

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execution date of the HAP Contract to add additional PBV contract units in the same building. An amendment to the HAP Contract is subject to all PBV requirements (e.g., rents are reasonable), except that a new PBV request for proposals is not required. The anniversary and expiration dates of the HAP Contract for the additional units must be the same as the anniversary and expiration dates of the HAP Contract term for the PBV units originally placed under HAP Contract.

c. Amendment to Add a Preference:

- At the discretion of the WHA and subject to all PBV requirements, the HAP Contract may be amended to add a preference in accordance with Section 3.4.

d. Staged Completion of Contract Units:

- Even if contract units are placed under the HAP Contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP Contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP Contract. The expiration of the HAP Contract for all the contract units completed in stages must be concurrent with the end of the HAP Contract term for the units originally placed under HAP Contract.

## 13.4.6 Condition of Contract Units

The owner must maintain and operate the contract units and premises in accordance with the HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP Contract with the WHA and in the lease with each assisted family.

At the discretion of the WHA, the HAP Contract may also require continuing owner compliance during the HAP term with additional housing quality requirements specified by the WHA (in addition to, but not in place of, compliance with the HUD-prescribed HQS). Such additional requirements may be designed to assure continued compliance with a design, architecture, or quality requirement specified in the Agreement.

The WHA must vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS. The WHA may not make any HAP payment to the owner for a contract unit covering any period during which the contract unit does not comply with the HQS.

If the WHA determines that a contract unit is not in accordance with HQS (or other HAP Contract requirements), the WHA may exercise any of its remedies under the HAP

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Contract for all or any contract units. Such remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP Contract. If the WHA terminates the HAP Contract for a particular PBV unit the WHA will attempt to relocate the participant to another PBV unit. If there are no PBV units available in the building or otherwise suitable units, the WHA will offer the family a tenant-based voucher. If the family has been in the PBV program for more than one-year, the family may request a tenant-based voucher.

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

## **13.4.7 Owner Responsibilities**

The owner is responsible for performing all of the owner responsibilities under the Agreement and the HAP Contract. 24 C.F.R. § 982.452 (Owner Responsibilities) applies.

## **13.4.8 Owner Certification**

By execution of the HAP Contract, the owner certifies that at such execution and at all times during the term of the HAP Contract:

- a. All contract units are in good and tenantable condition. The owner is maintaining the premises and all contract units in accordance with the HQS;
- b. The owner is providing all the services, maintenance, equipment, and utilities as agreed to under the HAP Contract and the leases with assisted families;
- c. Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the WHA, and the lease is in accordance with the HAP Contract and HUD requirements;
- d. To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence;
- e. The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- f. The amount of the housing assistance payment is the correct amount due under the HAP Contract;
- g. The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units;

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- h. Except for the housing assistance payment and the tenant rent as provided under the HAP Contract, the owner has not received and will not receive any payment or other consideration (from the Family, the WHA, HUD, or any other public or private source) for rental of the contract unit; and
- i. The family does not own or have any interest in the contract unit.

## 13.5 OCCUPANCY

### 13.5.1 How Participants are Selected

a. Who May Receive PBV Assistance:

- The WHA may select families who have applied for admission to the project-based voucher program. The WHA may only select families determined eligible for admission at commencement of PBV assistance. However, participants transferred to the PBV program as an administrative transfer are not re-screened for eligibility.
- The WHA will use a separate waiting list(s) for admission to PBV units. See Sections 3.

b. Preferences for Services Offered:

- In selecting families, the WHA may give preference to disabled families who need services offered at a particular project in accordance with the limits under this paragraph. The prohibition on granting preferences to persons with a specific disability at 24 C.F.R. § 982.207(b)(3) continues to apply.
- The preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and for whom such services cannot be provided in a non-segregated setting. Disabled residents shall not be required to accept the particular services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project.

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c. Protection of In-Place Families:

- The term "in-place family" means an eligible family residing in a proposed contract unit on the proposal selection date. In order to minimize displacement of in-place families, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the corresponding WHA waiting list (if the family is not already on the list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project. (However, the WHA may deny assistance for the grounds specified in 24 C.F.R. § 982.552 and 982.553.) Admission of such families is not subject to income-targeting under 24 C.F.R. § 982.201(b)(2)(i), and such families must be referred to the owner from the WHA's waiting list. WHA shall give such families priority for admission to the PBV program. This protection does not apply to families that are not eligible to participate in the program on the proposal selection date.

## **13.5.2 WHA Information for Accepted Family**

When a family accepts an offer of PBV assistance, the WHA must give the family an oral briefing. The briefing includes a description of how the program works and the family and owner responsibilities.

The WHA must give the family a packet that includes information on the following subjects: how the WHA determines the total tenant payment for a family, family obligations under the program, and applicable fair housing information.

If the family head or spouse is a disabled person, the WHA must take appropriate steps to assure effective communication, in accordance with 24 C.F.R. § 8.6, in conducting the oral briefing and in providing the written information packet, including in alternative formats.

The WHA shall have a mechanism for referring a family that includes a person with mobility impairment to accessible PBV units.

The WHA will communicate with persons of limited English ability.

## **13.5.3 Leasing of Contract Units**

During the term of the HAP contract, the owner must lease contract units only to eligible families selected and referred by the WHA from the WHA waiting list. The owner is responsible for adopting written tenant selection procedures that are consistent with the

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purpose of improving housing opportunities for very low-income families and are reasonably related to program eligibility and an applicant's ability to perform the lease obligations. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

The contract unit leased to each family must be appropriate for the size of the family under the WHA's subsidy standards. See Section 7.1.

## **13.5.4 Vacancies**

The owner must promptly notify the WHA of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, the WHA must make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies.

The owner must lease vacant contract units only to eligible families on the WHA waiting list referred by the WHA.

The WHA and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy.

If the PBV project requires an agency referral, the owner (or agency) will notify the WHA of any vacancy and will provide the name of the next family waiting for a particular sized unit for WHA's approval and referred back to the owner (or agency) for their screening and processing.

If any contract units have been vacant for a period of one hundred and twenty (120) or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the WHA to fill such vacancies), the WHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

The WHA may add units to the building by amending the HAP contract in accordance with Section 13.4.5

## **13.5.5 Tenant Screening**

The WHA will screen tenants for eligibility. The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

- a. Payment of rent and utility bills;
- b. Caring for a unit and premises;



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- c. Respecting the rights of other residents to the peaceful enjoyment of their housing;
- d. Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- e. Compliance with other essential conditions of tenancy.

The WHA will provide the owner with the family's current and prior address (as shown in the WHA records) and the name and address (if known) of the landlord at the family's current and prior address (upon request of the owner).

## 13.5.6 Lease

- a. Tenant's Legal Capacity:
  - 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.
- b. Form of Lease:
  - The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant.
  - The WHA will review the owner's lease form to determine if the lease complies with State and local law. The WHA may decline to approve the tenancy if the WHA determines that the lease does not comply with State or local law. The WHA shall not be liable under this Section if the WHA erroneously determines that the lease complies with State and local law.
  - 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, except if the WHA has made a determination that the lease does not comply with State and local law. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a WHA model lease.
  - In all cases, the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

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c. The Lease Must Specify all of the Following:

- The names of the owner and the tenant;
- The unit rented (address, unit number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner. The tenant rent to owner is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of what services, maintenance, equipment, and utilities are to be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

d. Tenancy Addendum:

- The tenancy addendum in the lease shall state the program tenancy requirements (as specified in this part) and the family composition as approved by the WHA (names of family members and any household members ).
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum shall prevail over other provisions of the lease.

e. Changes in Lease:

- If the tenant and the owner agree to any change in the lease, such change must be in writing, and the owner must immediately give the WHA a copy of all such changes.
- The owner must notify the WHA in advance of any proposed change in lease requirements governing the allocation of tenant and owner responsibilities for utilities. Such changes may be made only if approved by the WHA and in accordance with the terms of the lease relating to its amendment. The WHA must redetermine reasonable rent, in accordance with 24 C.F.R. § 983.303(c), based on any change in the allocation of responsibility for utilities between the owner and the tenant, and the redetermined reasonable rent shall be used in calculation of rent to owner from the effective date of the change.

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f. Initial Term of Lease:

- The initial Lease term must be for at least one year.

g. Lease Provisions Governing Tenant Absence from the Unit:

- The lease may specify a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by WHA policy.

## 13.5.7 Owner Termination of Tenancy and Eviction

a. In General:

- In general, 24 C.F.R. § 982.310 applies with the exception that §§ 982.310(d)(1)(iii) and (iv) do not apply to the PBV program. (In the PBV program, “good cause” does not include a business or economic reason or desire to use the unit for an individual, family, or non-residential rental purpose.)

b. Upon Lease Expiration, an Owner May:

- Renew the lease;
- Refuse to renew the lease for good cause as stated in paragraph (a) of this section; or
- Refuse to renew the lease without good cause, in which case the WHA would provide the family with a tenant-based voucher, if available, and the unit would be removed from the PBV HAP Contract.

c. Failure to Complete FSS Contract or Participation in Supportive Services Requirement:

- If a family resides in a project-based unit excepted from the twenty-five percent (25%) per-building cap on project-basing because of participation in an FSS or other supportive services program, and the family fails, without good cause, to complete its FSS contract of participation or supportive services requirement, such failure is grounds for lease termination by the owner.

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## 13.5.8 Security Deposit

The owner may collect a security deposit from the tenant in accordance with Massachusetts State law.

## 13.5.9 Overcrowded, Under-Occupied, and Accessible Units

### a. Family Occupancy of Wrong-Size or Accessible Unit:

- The WHA subsidy standards determine the appropriate unit size for the family based upon the family size and composition. If the WHA determines that a family is occupying a wrong-size unit or a unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the WHA must promptly notify the family and the owner of this determination. The WHA must offer the family the opportunity to receive continued assistance in another unit.
- The WHA will offer continued housing assistance in the form of:
  - o PBV assistance in an appropriate-size unit in the same project;  
or
  - o Tenant-based rental assistance under the voucher program.
- The form of the offer for continued housing assistance will be at the sole discretion of the WHA.
- If a family is considered to be in a wrong-size unit because they are under-housed in accordance with the WHA subsidy standards, but the family does not wish to move, the family may request in writing to remain in their current unit. The WHA will allow the family to remain in their current unit, provided they are not over-crowded in accordance with HQS and State and local codes.

### b. WHA Termination of Housing Assistance Payments:

- If the WHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the WHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the WHA).

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- If the WHA offers the family the opportunity for another form of continued housing assistance in accordance with paragraph (a) of this section (not in the tenant-based voucher program), and the family does not accept the offer within fourteen (14) days of the date of the offer (or rejects the offer), and does not move out of the unit or both, the WHA must terminate the housing assistance payments for the wrong-sized or accessible unit at the end of the second month following the offer.
- c. Under-Occupied Units (Applies to RAD Conversions Only):
- If a family is in an under-occupied unit at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project (post-conversion property with assistance converted from one form of rental assistance to another under the Rental Assistance Demonstration). When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the WHA.
  - In the event that the Covered Project has numerous residents living in wrong-sized units, the WHA will hold a lottery to determine unit transfer placement for the in-place residents. There will be separate lotteries for over-housed residents and under-housed residents.
  - Under-housed residents may choose to remain in their current unit as long as the WHA has determined that it continues to meet HQS. Over-housed residents must move to the appropriate-sized unit. If the over-housed resident refuses to move, paragraph (b) of this section applies.

### 13.5.10 Family Right to Move

The family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the WHA) in accordance with the lease. If the family has elected to terminate the lease in this manner, the WHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Before providing notice to terminate the lease under this section, a family must make a written request for tenant-based rental assistance if the family wishes to move with continued assistance. If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, the WHA

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will place the family on a waiting list by date and time of request to receive the next available opportunity for continued tenant-based rental assistance.

If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

The WHA may deny the opportunity for a tenant-based voucher where there are grounds for denial or termination.

## **13.5.11 When Occupancy May Exceed 25-Percent Cap**

Except as provided in 24 C.F.R. § 983.56(b), the WHA may not pay housing assistance under the HAP Contract for contract units in excess of the twenty-five percent (25%) cap pursuant to 24 C.F.R. § 983.56(a).

In referring families to the owner for admission to excepted units, the WHA must give preference to Elderly or Disabled families; or to families receiving supportive services. Said preferences will be applied to those waiting lists in conjunction with the executed HAP contract.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received FSS supportive services or any other service as defined in the WHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or the remaining members of the family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the twenty-five percent (25%) cap exception (e.g., a family that does not successfully complete its FSS contract of participation or the supportive services requirement as defined in the WHA administrative plan or the remaining members of a family that no longer qualifies for Elderly or Disabled Family status) must vacate the unit within a reasonable period of time established by the WHA, and the WHA shall cease paying housing assistance payments on behalf of the non-qualifying family. If the family fails to vacate the unit within the established time, the unit must be removed from the HAP Contract unless the project is partially assisted, and it is possible for the HAP Contract to be amended to substitute a different unit in the building in accordance with 24 C.F.R. § 983.207(a); or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations (e.g., a family fails, without good cause, to successfully complete its FSS contract of participation or supportive services requirement) shall be terminated by the WHA.

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## 13.6 RENT TO OWNER

### 13.6.1 Determining Rent to Owner

a. Initial and Redetermined Rents:

- The amount of the initial and redetermined rent to owner is determined in accordance with this section and 24 C.F.R. §§ 983.301, 983.302.
- The amount of the initial rent to owner is established at the beginning of the HAP Contract term.
- The rent to owner is redetermined at the owner's request for a rent increase in accordance with this section and 24 C.F.R. § 983.302. The rent to owner is also redetermined at such time when there is a five percent (5%) or greater decrease in the published FMR in accordance with 24 C.F.R. § 983.302.

b. Amount of Rent to Owner:

- Except for certain tax credit units as provided in paragraph (c) of this section, the rent to owner must not exceed the lowest of:
  - o An amount determined by the WHA, not to exceed 110 percent (110%) of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance;
  - o The reasonable rent; or
  - o The rent requested by the owner.

c. Rent to Owner for Certain Tax Credit Units:

- The WHA will determine the rent on tax credit units in accordance with federal law.

d. Rent to Owner for Other Tax Credit Units:

- Except in the case of a tax credit unit described in paragraph (c) of this section, the rent to owner for all other tax credit units is determined pursuant to paragraph (b) of this section.

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- e. Reasonable Rent:
  - The WHA shall determine reasonable rent in accordance with 24 C.F.R. § 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent.
  
- f. Use of FMRs and Utility Allowance Schedule in Determining the Amount of Rent to Owner:
  - Amounts Used:
    - Determination of initial rent (at beginning of HAP Contract term). When determining the initial rent to owner, the WHA shall use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP Contract. At its discretion, the WHA may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP Contract.
    - Redetermination of rent to owner. When redetermining the rent to owner, the WHA shall use the most recently published FMR and the WHA utility allowance schedule in effect at the time of redetermination. At its discretion, the WHA may use the amounts in effect at any time during the 30-day period immediately before the redetermination date.
  - Exception Payment Standard and PHA Utility Allowance Schedule:
    - Any HUD-approved exception payment standard amount under 24 C.F.R. § 982.503(c) applies to both the tenant-based and project-based voucher programs. HUD will not approve a different exception payment standard amount for use in the PBV program.
    - The WHA may not establish or apply different utility allowance amounts for the PBV program. The same WHA utility allowance schedule applies to both the tenant-based and the PBV programs.
  
- g. WHA-Owned Units:
  - For WHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the annual anniversary of the HAP Contract are determined by the independent entity approved by HUD in



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accordance with 24 C.F.R. § 983.59. The WHA must use the rent to owner established by the independent entity.

## **13.6.2 Redetermination of Rent to Owner**

The WHA must redetermine the rent to owner upon the owner's request; or when there is a five percent (5%) or greater decrease in the published FMR in accordance with 24 C.F.R. § 983.301.

The WHA may not make any rent increase other than an increase in the rent to owner as determined pursuant to 24 C.F.R. § 983.301.

The owner must submit a written request for a rent increase at least sixty (60) days prior to the date of the anniversary of the HAP contract to receive an increase in rent. A rent increase that is not submitted at least sixty (60) days prior to the date of the anniversary of the HAP contract shall not be processed until the following year.

If there is a decrease in the rent to owner, as established in accordance with 24 C.F.R. § 983.301, the rent to owner must be decreased, regardless of whether the owner requested a rent adjustment.

Rent to owner is redetermined by written notice by the WHA to the owner specifying the amount of the redetermined rent. The WHA notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP Contract.

The contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract term.

The annual anniversary of the HAP Contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of twelve (12) calendar months from the annual anniversary of the HAP Contract. See 24 C.F.R. § 983.207(c) for information on the annual anniversary of the HAP Contract for contract units completed in stages.

## **13.6.3 Reasonable Rent**

### **a. Owner Certification of Comparability:**

- By accepting each monthly housing assistance payment from the WHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the WHA information requested by the WHA on

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rents charged by the owner for other units in the premises or elsewhere.

b. Determining Reasonable Rent for WHA-Owned Units:

- For WHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with 24 C.F.R. § 983.59, rather than by the WHA. Reasonable rent must be determined in accordance with this section.
- The independent entity must furnish a copy of the independent entity determination of reasonable rent for WHA-owned units to the WHA and to the HUD field office where the project is located.

### 13.6.4 Other Subsidy: Effect on Rent to Owner

In addition to the rent limits established in accordance with 24 C.F.R. §§ 983.301 and 982.302, the following restrictions apply to certain units:

a. HOME:

- For units assisted under the HOME program, rents may not exceed rent limits as required by the HOME program (24 C.F.R. § 92.252).

b. Subsidized Projects:

- This paragraph applies to any contract units in any of the following types of federally subsidized project:
  - An insured or non-insured Section 236 project;
  - A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
  - A Section 221(d)(3) below market interest rate (BMIR) project;
  - A Section 515 project of the Rural Housing Service;
  - A project receiving low-income housing tax credits; or
  - Any other type of federally subsidized project specified by HUD.

# Project-Based Vouchers

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- The rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program listed in this section.

c. Combining Subsidy:

- Rent to Owner may not exceed any limitation required to comply with HUD subsidy layering requirements. See 24 C.F.R. § 983.55.

d. Other Subsidy- WHA Discretion to Reduce Rent:

- At its discretion, the WHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

e. Prohibition of Other Subsidy:

- For provisions that prohibit PBV assistance to units in certain types of subsidized housing, see 24 C.F.R. § 983.54.

## **13.6.5 Rent to Owner: Effect of Rent Control and Other Rent Limits**

In addition to the limitation to one hundred and ten percent (110%) of the FMR in 24 C.F.R. § 983.301(b)(1), the rent reasonableness limit under 24 C.F.R. §§ 983.301(b)(2) and 983.303, the rental determination provisions of §983.301(f), the special limitations for tax credit units under §983.301(c), and other rent limits under this part, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

## **13.6.6 Payment to Owner**

a. When Payments are Made:

- During the term of the HAP Contract, the WHA shall make housing assistance payments to the owner in accordance with the terms of the HAP Contract. The payments shall be made for the months during which a contract unit is leased to and actually occupied by an eligible family.
- Except for discretionary vacancy payments in accordance with 24 C.F.R. § 983.352, the WHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

# Project-Based Vouchers

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b. Monthly Payment:

- Each month, the WHA shall make a housing assistance payment to the owner for each contract unit that complies with the HQS and is leased to and occupied by an eligible family in accordance with the HAP Contract.

c. Calculating Amount of Payment:

- The monthly housing assistance payment by the WHA to the owner for a contract unit leased to a family is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

d. Prompt Payment:

- The housing assistance payment by the WHA to the owner under the HAP Contract shall be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the WHA agree on a later date.

e. Owner Compliance with Contract:

- To receive housing assistance payments in accordance with the HAP Contract, the owner must comply with all the provisions of the HAP Contract. Unless the owner complies with all the provisions of the HAP Contract, the owner does not have a right to receive housing assistance payments.

## 13.6.7 Vacancy Payment

If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out ("move-out month"). However, the owner may not keep the payment if the WHA determines that the vacancy is due to the owner's fault.

## 13.6.8 Tenant Rent: Payment to Owner

a. WHA Determination:

- The tenant rent is the portion of the rent to owner paid by the family. The WHA determines the tenant rent in accordance with HUD requirements. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the WHA to the family and the owner.

# Project-Based Vouchers

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## b. Tenant Payment to Owner:

- The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent as determined by the WHA is the maximum amount the owner may charge the family for rent of a contract unit. The tenant rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the owner without additional charge to the tenant, in accordance with the HAP Contract and lease.
- The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the WHA. The owner must immediately return any excess payment to the tenant.
- The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP Contract. The owner may not terminate the tenancy of an assisted family for nonpayment of the WHA housing assistance payment.

## c. Limit of WHA Responsibility:

- The WHA is responsible only for making housing assistance payments to the owner on behalf of a family in accordance with the HAP Contract. The WHA is not responsible for paying the tenant rent, or for paying any other claim by the owner.
- The WHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the tenant rent or to pay any other claim by the owner. The WHA may not make any payment to the owner for any damage to the unit, or for any other amount owed by a family under the family's lease or otherwise.

## d. Utility Reimbursement:

- If the amount of the utility allowance exceeds the total tenant payment, the WHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities ("utility reimbursement") and the tenant rent to the owner shall be zero. The WHA either may pay the utility reimbursement to the family or may pay the utility bill directly to the utility supplier on behalf of the family. If the WHA chooses to pay the utility supplier directly, the WHA must notify the family of the amount paid to the utility supplier.

# Project-Based Vouchers

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## 13.6.9 Other Fees and Charges

### a. Meals and Other Supportive Services:

- Except as provided the paragraph below, the owner may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.
- In assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### b. Other Charges by Owner:

- The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises. If an owner does charge extra amounts the WHA reserves the right to terminate all HAP Contracts with that owner.

# Special Admissions and Enhanced Vouchers

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## 14.1 SPECIAL ADMISSIONS AND ENHANCED VOUCHERS

If units lose their assistance as a result of a housing conversion action HUD may issue enhanced voucher or a regular tenant-based voucher. Enhanced vouchers are special admission vouchers that allow families to stay in the unit after a housing conversion action. Housing conversion actions occur when existing, project-based units are converted to unassisted units (project-based refers to various forms of project-based assistance, but does not refer to units with project-based vouchers). The following are housing conversion action types: preservation prepayment, Section 8 opt-out, HUD enforcement action, and property disposition. HUD will determine whether the situation qualifies for regular or enhanced vouchers. Whether a regular or enhanced voucher, the family may elect to use the assistance in the same project (provided the unit is acceptable as stated below) or move from the property immediately. Vouchers issued after a conversation action are not issued to families from the waiting list. However, the WHA may use any vouchers not issued to housing conversion action families for families on the regular waiting list (these vouchers are not enhanced).

### 14.1.1 Eligibility Screening

The WHA will screen potentially eligible families for eligibility. In determining eligibility, the WHA may use owner certifications for initial determination of tenant income if the certification is no more than six (6) months old as of the voucher issuance date and the WHA determines that the owner certifications are acceptable.

Eligibility requirements for enhanced vouchers may be different depending on the type of housing conversion action. In the case of a preservation prepayment, the resident must be living in the property on the effective date of the prepayment and must be a low-income family, a moderate-income elderly or disabled family, or a moderate-income family residing in a low vacancy area (as determined by HUD). In the case of an owner opt-out, the resident must be a low-income family and residing in a unit covered by the expiring contract on the date of expiration.

If a family may be eligible for an enhanced voucher, but receives no HAP payment because the family's total tenant payment is equal to or greater than the gross rent, and the family wants to stay in the project, the family's eligibility period is extended three (3) years. The WHA will inform the family of this three-year potential eligibility, and that if the rent increases or the family's income decreases during this time, the family must contact the WHA. It is the responsibility of the family to contact the WHA if the family's income decreases or the rent increases during the three year period.

### 14.1.2 Subsidy Standards and Over-Housed Families

The WHA issues special admission vouchers and enhanced vouchers in accordance with the WHA subsidy standards and not the actual size of the unit the family is currently

## Special Admissions and Enhanced Vouchers

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occupying. If the bedroom size of the family's unit exceeds the number of bedrooms for which the family qualifies under the WHA subsidy standards, the family is an over-housed family (unless the family qualifies for a reasonable accommodation for an additional bedroom(s)).

If an over-housed family chooses to move from the project at any time, the normal tenant-based voucher program rules apply to the subsidy calculation for the new unit. However, if an over-housed family wishes to remain at the project, the regular voucher program requirements regarding the payment standard are not applicable.

If a family is over-housed and an appropriate-sized unit in the project is available, the family must move within thirty (30) days of the date of the offer to transfer. If no appropriate-sized unit is available, but a unit is available that is smaller than the family's current unit but not smaller than the unit size for which the family qualifies, the family must move to the smaller unit within thirty (30) days of the date of the offer to transfer. If no appropriate-sized units are currently available in the project, the WHA will execute a HAP contract for the oversized unit, and the subsidy calculation will continue to be based upon the gross rent for the oversized unit until an appropriate-sized unit becomes available. When an appropriate-sized unit becomes available, the over-housed family must move to smaller unit within thirty (30) days of the date of the offer to transfer. If there are more over-housed families in a project than there are available units, the WHA will transfer over-housed families by conducting a lottery. If a family refuses to move to an available appropriate-sized unit or smaller unit, the regular WHA subsidy standards will apply and the family is responsible for any amount of the gross rent not covered by the HAP.

The WHA shall only grant an extension of time to move beyond the thirty (30) days of the date of the offer to transfer as an approved reasonable accommodation. The WHA shall not grant extensions for any other reason. The family must submit a complete request for reasonable accommodation within the thirty (30) days of the date of the offer to transfer.

When a family transfers to an appropriate-sized unit, the family and owner will enter into a new lease and the WHA will execute a new HAP contract with the owner for the new unit. The enhanced voucher subsidy calculation will be based on the gross rent for the appropriate-sized unit.

### **14.1.3 Rent Reasonableness**

All regular program requirements concerning the reasonableness of the rent apply, whether the vouchers are enhanced or regular special admission vouchers. The WHA determines whether the proposed rent for the property is reasonable just as it does for any other potential units under the tenant-based assistance program. The WHA determines



# Special Admissions and Enhanced Vouchers

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whether the rent requested by the owner is a reasonable rent in comparison to other comparable unassisted units based on the current condition of the unit. The WHA does not base the rent reasonableness determination on any pending or planned enhancements to the property. If the WHA determines the proposed rent is not reasonable, the owner must lower the rent or the family will have to find another unit in order to benefit from the voucher subsidy.

## **14.1.4 Payment Standards**

The payment standard for families that stay in the same unit is equal to the gross rent. The gross rent is the new rent to owner plus the applicable utility allowance. If the gross rent is less than the WHA's payment standard, the regular payment standard rules apply. The enhanced payment standard will increase to cover subsequent rent increases. However, at all times, the rent must remain reasonable. If the family remains in the project, the family must continue to contribute towards rent at least the amount the family was paying for rent on the eligibility event.

## **14.1.5 HQS**

The WHA must inspect the unit and ensure the unit meets the housing quality standards of the program. The WHA may not make housing assistance payments to cover any period prior to the date the unit meets HQS.

## **14.1.6 HAP Contract Execution**

For families staying at the project, the HAP contract may not be effective prior to the eligibility event date. For a family that is moving the project, the WHA may execute a HAP contract that is thirty (30) days prior to the target date, provided the family gives a proper notice to vacate to the owner of the project and a copy of such notice to the WHA. All HAP contracts must be executed within sixty (60) days of the commencement of the lease term. Any HAP contract that is not executed within sixty (60) days of the commencement of the lease term is void.

## **14.1.7 Changes in Family Size**

If the family size increases and the family becomes overcrowded under HQS, the family must move in order to continue to receive housing assistance. The family may move to a larger unit within the project if such a unit is available. If there are no such units available the family must move to an acceptable unit outside of the project. The family may also choose to move from the project even if there is an appropriate-sized unit available at the project. If the family moves from the project, the voucher becomes a regular, tenant-based voucher. If the family refuses to move from the overcrowded unit without good cause, the WHA will terminate the HAP contract.

## **Special Admissions and Enhanced Vouchers**

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If the family size decreases, and the family becomes over-housed, the family must move to an appropriate sized unit as described in Section 14.1.2. Until such time as an appropriate-sized unit becomes available, the family shall continue to receive enhanced voucher assistance in the oversized unit.

# Special Housing Types and Programs

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## 15.1 SPECIAL HOUSING TYPES

The WHA will not permit the use of any special housing types other than those as defined in this section. In general, the WHA is not required to permit families (including families that move into the WHA program under portability procedures) to use any of these special housing types, and may limit the number of families using special housing types.

In general, the Housing Quality Standards (HQS) apply to all units (see Section 8.1). However, each special type of housing has additional HQS standards.

### 15.1.1 Single Room Occupancy (SRO)

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. Only one person may occupy an SRO. A separate lease and HAP Contract must be executed for each assisted person residing in an SRO.

The payment standard for an SRO is seventy-five percent (75%) of the WHA zero-bedroom payment standard.

The Housing Assistance Payment for an assisted occupant in an SRO facility is the lower of the following:

- a. The SRO payment standard amount minus the Tenant Total Payment; or
- b. The gross rent for the unit minus the Tenant Total Payment.

The utility allowance for an assisted person residing in SRO housing is seventy-five percent (75%) of the zero bedroom utility allowance.

The HQS for SRO's can be found at 24 CFR § 982.605.

### 15.1.2 Congregate Housing

The WHA does not permit the use of congregate housing.

### 15.1.3 Group Homes

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. The group home consists of resident's bedrooms (which can be shared by no more than two people), 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 twelve (12) persons may reside in a group home (including assisted and unassisted residents, and any live-in-aides).

# Special Housing Types and Programs

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Elderly persons or persons with disabilities may live in group homes. If approved by the WHA, a live-in aide may live in the group home with a person with disabilities. The WHA 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. 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 continual medical or nursing care.

Unless there is a WHA-approved live-in-aide, the family unit size for an assisted occupant of a group home is a zero bedroom. If there is a live-in-aide, the aide must be counted in determining the household's unit size.

The payment standard for a group home is the lower of:

- a. The payment standard for the family unit size; or
- b. The pro-rata share of the payment standard for the group home size (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 Housing Assistance Payment for an assisted occupant in a group home is the lower of the following:

- a. The calculated payment standard for the group home minus the Tenant Total Payment; or
- b. The gross rent minus the Tenant Total Payment.

The utility allowance for an assisted person residing in a group home is the pro-rata share of the utility allowance for the group home.

The reasonable rent for a group home is determined in accordance with 24 CFR § 982.507. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, the WHA shall consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

The HQS for group home's can be found at 24 CFR § 982.614.

## **15.1.4 Shared Housing**

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. The unit may be a house or apartment.

# Special Housing Types and Programs

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Shared housing is limited to certain persons referred to the WHA by either the Massachusetts Department of Public Health (DMH) or the Massachusetts Department of Developmental Services (DDS).

An assisted family may share a unit with other persons assisted under the housing choice voucher 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 WHA, a live-in aide may reside with the family to care for a person with disabilities.

The payment standard for a shared housing is the lower of:

- a. The payment standard for the family unit size; or
- b. The pro-rata share of the payment standard for the shared housing unit size (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 Housing Assistance Payment for a family in shared housing is the lower of the following:

- a. The Tenant Total Payment minus the payment standard; or
- b. The Tenant Total Payment minus the gross rent.

The reasonable rent for shared housing is determined in accordance with 24 CFR § 982.507. The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit.

The utility allowance for an assisted family residing in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

The HQS for shared housing can be found at 24 CFR § 982.618.

## **15.1.5 Cooperative Housing**

The WHA does not permit the use of cooperative housing.

## **15.1.6 Manufactured Homes**

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, is designed for use as a principal place of residence, and meets housing choice voucher program HQS. Program provisions for the leasing of

## Special Housing Types and Programs

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manufactured homes apply when the family leases the manufactured home unit and the manufactured home space.

There are no program restrictions on who may occupy a manufactured home. The WHA must allow a family to lease a manufactured home and space with assistance under the program. The WHA does not provide assistance to a family that owns the manufactured home and leases only the space.

The payment standard for a manufactured housing unit and space is the payment standard for units of the same size on the WHA's payment standard schedule.

The Housing Assistance Payment for a manufactured home is the lower of:

- a. The payment standard minus the Tenant Total Payment; or
- b. The gross rent minus the Tenant Total Payment.

The WHA must determine that the rent paid to the owner for a manufactured home is reasonable based on rents for comparable unassisted units.

The HQS for shared housing can be found at 24 CFR § 982.621.

### **15.1.7 Homeownership Option**

The WHA provides the homeownership option to assist a family residing in a home purchased and owned by one or more members of the family.

Participation in the homeownership option is strictly voluntary. All participating families must meet the HUD and WHA established requirements for admission and participation in the Housing Choice Voucher Program prior to exercising the homeownership option.

Families who wish to exercise this option must meet all regulatory and discretionary program requirements as set forth in this section.

The WHA provides homeownership assistance in the form of monthly homeownership assistance payments. The WHA does not provide homeownership assistance in the form of a single down payment assistance grant.

- a. Eligibility Requirements for Families:

The WHA will not provide homeownership assistance to a family unless it determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

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- The family has been admitted to the Section 8 Housing Choice Voucher program;
- The family satisfies any first-time homeowner requirements;
- The family satisfies the minimum income requirement;
- The family satisfies the employment requirements;
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option;
- Except for cooperative members who have acquired cooperative shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of a home;
- Except for cooperative members who have acquired cooperative shares prior to commencement of homeownership assistance, the family has entered a contract of sale provision as outlined in this section;
- The family must have successfully completed an initial term of a lease under the Housing Voucher Choice Program; and
- The family must be enrolled in the WHA's Family Self-Sufficiency Program for a minimum term of one year. For families porting in from another housing authority, the WHA will give credit for the amount of time the family was enrolled in another housing authority's Family Self-Sufficiency program.

b. First-Time Homeowner Requirement:

At commencement of homeownership assistance for the family, the family must be either a first-time homeowner; a cooperative member; or a family of which a family member is a person with disabilities, and the use of the homeownership option is need as a reasonable accommodation.

To qualify as a first-time homeowner, no member of the family owned any present ownership interest in a residence of any family member during the three (3) years before commencement of homeownership assistance for the family. A first-time homeowner includes a single parent or displaced homemaker (as defined in 12 U.S.C. § 12713) who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

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A cooperative member is a family of which one or more members owns membership shares in a cooperative.

c. Minimum Income Requirement:

At the commencement of homeownership assistance, the family must demonstrate that the annual income of all adult family members who will own the home is not less than the following:

- The federal minimum wage multiplied by 2,000 hours; or
- For disabled families, the monthly supplemental security income (SSI) benefit for an individual living alone multiplied by twelve (12).

The minimum income requirement will only be used in determining initial program qualification and not as continuing program participation. The minimum income requirement will only be used again if the family purchases an additional home with homeownership option assistance.

The WHA will not provide homeownership assistance to a family, with the exception of an elderly or disabled family, if welfare assistance is being used to satisfy the minimum income requirement. The WHA will only disregard welfare income as it applies in determining the family's eligibility for participation in the homeownership option. Welfare assistance income will continue to be counted in determining eligibility for admission to the Housing Choice Voucher Program, calculating the amount of the family's total tenant payment and in calculating the amount of monthly homeownership assistance payment for a family assisted under the homeownership option.

The WHA shall include welfare assistance for the adult family members who will own the home in determining if the family meets the minimum income requirement for elderly or disabled families.

Welfare assistance of an elderly or disabled family will be used in determining the minimum income requirement for homeownership assistance. The use of welfare assistance in determining the minimum income requirement does not apply to families that include a disabled member other than the head of the household or spouse.

d. Employment Requirements:

At the commencement of homeownership assistance one or more adult members of the family who will own the home must be currently employed on a full-time basis (not less than an average of thirty (30) hours per week) and



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has been continuously employed during the year before the receipt of homeownership assistance.

The employment requirement only applies at the time that the family initially receives homeownership assistance and does not apply to an elderly or disabled family. The WHA may in its discretion determine whether an interruption in employment is considered permissible in satisfying the employment requirement. The WHA may consider successive employment opportunities during the one-year period or self-employment.

The employment requirement does not apply to an elderly or disabled family. Additionally, if a family other than an elderly or disabled family includes a person with disabilities, the WHA will grant an exemption for the employment requirement if it determines that the exemption is needed as a reasonable accommodation.

e. Eligible Units:

The homeownership assistance may only be used for the purchase of a one unit property or single dwelling unit in a cooperative or a condominium. The purchase of both units of a duplex or multi-family homes are not eligible units under the program. An eligible unit may be one that is either currently under construction or an existing structure. For units under construction, see 24 CFR § 982.628(e).

The WHA will not approve the unit for purchase if the WHA has been informed by HUD or any other source that the seller has been disbarred, suspended, or subject to limited denial of participation under 24 CFR Part 2424.

f. Homeownership Counseling:

Once the family has been deemed eligible to participate in the homeownership option and prior to the commencement of homeownership assistance, the family must attend and satisfactorily complete a pre-assistance homeownership and housing counseling program required by the WHA. The topics that must be included in the homeownership and housing counseling program are:

- Home maintenance;
- Budgeting and money management;
- Credit counseling and repair;

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- How to negotiate the price of a home;
- How to obtain homeownership financing and loan preapprovals;
- How to find a home; and
- Fair housing information.

The WHA may also require additional counseling after the commencement of homeownership assistance. If the WHA requires a family to participate in such a post-purchase program, and the family fails to fulfill its obligation in attending the program, the WHA reserves the right to discontinue homeownership assistance.

g. Additional WHA Requirements for Family Search and Purchase:

Once a family has successfully completed the first-time homebuyer program, the family shall have twelve (12) months to locate and purchase the home. If the family is unable to complete the purchase of the home within the twelve (12) month period, the family will be required to complete another first-time homebuyer program. The WHA may require families to periodically report their progress in finding and purchasing a home.

h. Home Inspections:

In accordance with 24 CFR § 982.631, the WHA will require that the unit pass both a Housing Quality Standards inspection that will be conducted by the WHA or its designee and an independent professional home inspector selected and paid for by the family.

The WHA will not require that the family use an independent inspector selected by the WHA nor will the inspector be an employee, contractor or any other person under its control. The independent inspector must be qualified to report on property conditions including major building systems and components including:

- Foundation and structure;
- Housing interior and exterior;
- Roofing;
- Plumbing;
- Electrical; and

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- Heating systems.

The independent inspector must provide a copy of the inspection report to both the family and the WHA. The WHA will not commence with homeownership assistance for the family until the WHA has reviewed the inspection report of the independent inspector. The WHA shall have the discretion to disapprove the unit for assistance under the homeownership option because of information contained in the inspection report even if the unit complies with HQS and would be eligible for assistance under the WHA's tenant-based voucher program.

i. Contract of Sale:

The WHA will not commence with assistance under the homeownership option until the family enters into a contract for sale with the seller and provides the WHA with a copy of the sales contract.

The contract of sale that is entered into between the seller and the family must include:

- The price and other terms of the sale by the seller to the purchaser;
- That the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- That the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- The purchaser is not obligated to pay for any necessary repairs; and
- A certification from the seller that the seller has not been debarred, suspended or subject to a limited denial of participation under 24 CFR part 24.

For units under construction, the contract for sale must also provide that:

- The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site has received environmental approval prior to commencement of construction in accordance with 24 CFR § 982.628.
- The construction will not commence until the environmental review has been completed and the seller has received written notice from the WHA that environmental approval has been obtained. Conduct of the

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environmental review may not necessarily result in environmental approval, and environmental approval may be conditioned on the contracting parties' agreement to modifications to the unit design or to mitigation actions.

j. Financing Purchase of Home and Affordability of Purchase:

All families that are selected to participate in the homeownership program are required to secure their own financing. The proposed financing terms must be submitted to and approved by the WHA. The WHA shall determine the affordability of the proposed financing and may disapprove of the proposed financing or refinancing if it determines that the debt is unaffordable and/or has the potential of becoming unaffordable to the participating family.

The WHA will take into account family expenses such as childcare, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the WHA when determining affordability.

The WHA may review lender qualifications and the terms of the loan before it authorizes the commencement of homeownership assistance. The WHA is not under any obligation to provide assistance if it determines that the lender or the loan terms do not comply with program requirements. The WHA will take whatever steps are necessary to prevent the family from entering into a loan agreement that may appear predatory and/or result in the potential for foreclosure.

The WHA will not permit balloon payments and will scrutinize the affordability of adjustable-rate mortgages.

If the purchase of the home is financed with FHA mortgage insurance, the financing is subject to FHA mortgage insurance requirements.

k. Down Payment and Closing Costs:

The WHA shall require that participants of the homeownership program provide a three percent (3%) down payment towards the purchase of the home. One percent (1%) of the down payment must come directly from the participant; the other two percent (2%) may come from other sources available to the participant. Voucher HAP funds may not be used to assist with financing costs such as down payment and closing costs.

The participant will also be responsible for the payment of the closing costs or settlement costs that are customarily incurred upon the sale of a property. Closing costs include title insurance fees, escrow fees, attorney costs and other necessary fees associated with the purchase of a home.

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## l. Family Obligations:

The WHA will provide homeownership assistance only while the family is residing in the home. If the family moves out of the home, the WHA will not continue with homeownership assistance after the month that the family moves out. The family must notify the WHA sixty (60) days prior to moving out of the home. The family may not convey or transfer the home to any entity or person other than a member of the assisted family while receiving homeownership assistance.

The family must attend and complete any ongoing homeownership and housing counseling required by the WHA. Additionally, the family must comply with the terms of any mortgage securing debt incurred to purchase or refinance the home.

The family must supply the WHA with any information it deems necessary in the administration of the homeownership program.

The family must notify the WHA if the family defaults on a mortgage securing any debt incurred to purchase the home. During the time the family receives homeownership assistance under the program, no family member may have any ownership interest in any other residential property.

The family must comply with the obligations of a participant family described in 24 CFR §982.551. However, the following provisions do not apply to assistance under the homeownership option: 24 CFR §982.551(c), (d), (e), (f), (g) and (j).

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.

## m. Maximum Term of Homeownership Assistance:

The maximum term of homeownership assistance shall be for fifteen (15) years if the term of the mortgage is twenty (20) years or more. If the term of the financing is less than twenty (20) years, the maximum term of assistance shall be ten (10) years.

The maximum term for assistance does not apply to elderly or disabled program participants. The exception to the term limitation for elderly participants only applies if the family qualified as an elderly family at the commencement of the homeownership assistance. In the case of a disabled

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family, the exception applies if at any time during the receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least six (6) months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

n. Amount and Distribution of Monthly Homeownership Assistance Payment:

The WHA shall pay a monthly homeownership assistance payment on behalf of the family, while the family resides in the home, that is equal to the lower of: (1) the payment standard minus the tenant total payment; or (2) the family's monthly homeownership expenses minus the tenant total payment.

The payment standard for a family is the lower of: (1) the payment standard for the family unit size; or (2) the payment standard for the size of the home.

If the home is located in an exception payment standard area, the WHA must use the appropriate payment standard for the exception payment standard area.

The payment standard for a family is the greater of: (1) the payment standard (as determined in this section) at the commencement of homeownership assistance for occupancy of the home; or (2) the payment standard (as determined in this section) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The WHA shall use the same payment standard schedule, payment standard amounts, and subsidy standards for the homeownership option as for the rental voucher program.

The following shall be included in the calculation of homeownership expenses:

- Principal and interest on initial mortgage debt;
- Principal and interest on the refinancing of the mortgage debt;
- Mortgage insurance premiums required to finance the purchase or refinancing of the home;
- WHA allowance for utilities;

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- Real estate taxes;
- Public assessments on the home;
- Home insurance costs;
- A \$50.00 allowance for maintenance expenses (the WHA may require the family to put this allowance in a separate escrow account)\*;
- A \$100.00 allowance for costs of major repairs and replacements (the WHA may require the family to put this allowance in a separate escrow account)\*; and
- Principal and interest of debt incurred to finance major repairs or handicapped accessibility.

If the home is a cooperative or condominium, homeownership expenses may include cooperate or condominium operating charges or maintenance fees asses by the condominium or cooperative homeownership association.

\* If an allowance is made for cooperative or condominium charges, then only a \$25.00 allowance is given in place of the \$150.00 for maintenance and major repairs and replacements. This is due to the cooperative or condominium operating charges covering the cost of exterior and major repairs that would typically affect single-family homeowners.

At its discretion, the WHA will pay homeownership payments either directly to the first mortgage lender or to the family. If the WHA opts to pay the lender directly and the assistance payment exceeds the amount due to the lender, the WHA will pay any excess directly to the family.

o. Portability:

A family may qualify to move and purchase a home outside of the WHA's jurisdiction with continued homeownership assistance if the receiving PHA is administering a voucher homeownership program and is accepting new homeownership families.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable.

p. Denial or Termination of Assistance for Family:

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Homeownership assistance for a family terminates automatically one hundred and eighty (180) calendar days after the last homeownership assistance payment on behalf of the family. However, the WHA has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The WHA will terminate homeownership assistance and shall deny voucher rental assistance if the participating household is found to be in violation of the provisions set forth in 24 CFR § 982.552 or 24 CFR § 982.553. The WHA may also deny or terminate assistance for violations of participant obligations as described in 24 CFR § 982.552 or §982.633.

The WHA will terminate voucher homeownership assistance for any member of the family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage.

The WHA may in its discretion permit the family to move to a new unit with continued voucher rental assistance. However, the family shall not allow such a move if the family defaulted on an FHA insured mortgage and the family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

If the family defaults on a non-FHA insured mortgage, the WHA may provide continued voucher rental assistance to the family if it determines that the default was through no fault of the participating family.

## 15.2 SPECIAL PROGRAMS

### 15.2.1 Family Self-Sufficiency Program (FSS)

The WHA is committed to establishing and implementing a voluntary Family Self-Sufficiency Program ("FSS") to help families who receive housing assistance under the Section 8 rental voucher programs to achieve economic independence by using an array of resources such as child care, education and job training. The Family Self-Sufficiency Action Plan governs the specific program operations.

#### a. Family Selection Procedures and Outreach Efforts:

The FSS Program is open to all Section 8 rental certificate and rental voucher program participants. The WHA will conduct outreach to inform participants of the benefits of the program and recruit potential FSS program participants. Outreach may be by mailings, information at Section 8 briefings, newsletters, phone calls, information sessions, and enrollment meetings. The WHA



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selects families to participate in the FSS program by gauging their motivation to participate in the program.

b. Contract of Participation:

Each family that is selected to participate in an FSS program must enter into a contract of participation with the WHA. The contract incorporates the individual training and services plan(s); sets forth the principal terms and conditions governing participation in the FSS program; and the services to be provided to, and the activities to be completed by, the head of the FSS family and each adult member of the family who elects to participate in the program. The contract also provides that one of the obligations of the FSS family is to comply with the terms and conditions of the Section 8-assisted lease. The contract of participation shall be signed by the head of the FSS family.

The head of the FSS family shall be required under the contract to seek and maintain suitable employment during the term of the contract and any extension thereof. The obligation to seek employment means that the head of the FSS family has applied for employment, attended job interviews, and has otherwise followed through on employment opportunities. A determination of suitable employment shall be made by the WHA based on the skills, education, and job training of the individual that has been designated the head of the FSS family, and based on the available job opportunities within the jurisdiction served by the WHA.

The contract of participation shall provide that each FSS family will be required to fulfill those obligations to which the participating family has committed itself under the contract of participation no later than 5 years after the effective date of the contract. The WHA shall extend the term of the contract of participation for a period not to exceed two (2) years for any FSS family that requests (in writing) an extension of the contract (provided that the WHA finds that good cause exists for granting the extension). "Good cause" means circumstances beyond the control of the FSS family, as determined by the WHA, such as a serious illness or involuntary loss of employment.

The WHA and the FSS family may mutually agree to modify the contract of participation.

c. FSS Contract Compliance:

The contract of participation shall specify that if the FSS family fails to comply, without good cause, with the terms and conditions of the contract of participation, which includes the Section 8-assisted lease, the WHA may:

- Withhold the supportive services; or

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- Terminate the family's participation in the FSS program.

The WHA will not terminate Section 8 housing assistance for failure to complete FSS requirements.

d. FSS Contract Completion:

The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

- The FSS family has fulfilled all of its obligations under the contract of participation on or before the expiration of the contract term, including any extension thereof; or
- 30% (thirty percent) of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies based on the WHA's occupancy standards. The contract of participation will be considered completed and the family's participation in the FSS program concluded on this basis even though the contract term, including any extension thereof, has not expired, and the family members who have individual training and services plans have not completed all the activities set forth in their plans.

e. FSS Contract Termination

The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements.

The contract of participation may be terminated before the expiration of the contract term, and any extension thereof, by:

- Mutual consent of the parties;
- The failure of the FSS family to meet its obligations under the contract of participation without good cause, including in the Section 8 FSS program the failure to comply with the contract requirements because the family has moved outside the jurisdiction of the WHA;
- The family's withdrawal from the FSS program;
- Such other act as is deemed inconsistent with the purpose of the FSS program; or

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- Operation of law.

f. Individual Training and Service Plan:

The individual training and service plan is prepared by the WHA for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program. The plan forth: the supportive services to be provided to the family member; the activities to be completed by that family member; and the agreed upon completion dates for the services and activities.

For each participating FSS family that is a recipient of welfare assistance, the WHA must establish as an interim goal that the family become independent from welfare assistance and remain independent from welfare assistance at least one (1) year before the expiration of the term of the contract of participation, including any extension thereof.

Each individual training and services plan must be signed by the WHA and the participating family member, and is attached to, and incorporated as part of the contract of participation.

g. Escrow Account:

The FSS program requires establishment of an escrow account. The figures of Annual Income, Earned Income and Total Tenant Payment (TTP) on the FSS contract of participation become the baseline for future escrow calculations. If the Family's TTP increases due to an increase in earned income beyond the baseline figures, the difference is escrowed.

The WHA shall deposit the FSS account funds of all families participating in the WHA's FSS program into a single depository account.

Any increase in the earned income of an FSS family during its participation in an FSS program may not be considered as income or a resource for purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income of the FSS family equals or exceeds 80 percent of the median income of the area (as determined by HUD, with adjustments for smaller and larger families).

If the FSS family has not paid the family contribution towards rent, or other amounts, if any, due under the section 8-assisted lease, the balance in the family's FSS account shall be reduced by that amount (as reported by the owner to the WHA in the Section 8 FSS program) before prorating the interest income. If the FSS family has fraudulently under-reported income, the

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amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

The amount in an FSS account, in excess of any amount owed to the WHA by the FSS family shall be paid to the head of the FSS family when the contract of participation has been completed and if, at the time of contract completion, the head of the FSS family submits to the WHA a certification that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

If the WHA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term, and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family's FSS account, in excess of any amount owed to the WHA by the FSS family shall be paid to the head of the FSS family.

If the WHA determines that the FSS family has fulfilled certain interim goals established in the contract of participation and needs a portion of the FSS account funds for purposes consistent with the contract of participation, such as completion of higher education (i.e., college, graduate school), or job training, or to meet start-up expenses involved in creation of a small business, the WHA may, at the WHA's sole option, disburse up to 50% (fifty percent) of the funds from the family's FSS account to assist the family meet those expenses.

Amounts in the FSS account shall be forfeited upon the occurrence of the following: the contract of participation is terminated, as provided in 24 CFR § 984.303(e) or § 984.303(h); or the contract of participation is completed by the family, as provided in 24 CFR § 984.303(g), but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any extension thereof.

h. Portability:

Families participating in the FSS Program must remain within the WHA jurisdiction for 12 months after the effective date of the FSS Contract of Participation. However, the WHA may approve a family's request to move prior to the 12-month enrollment period. If, however, a family is avoiding the consequences of completing a contract obligation by exercising their portability rights, they are subject to termination from FSS and any escrow credits will be forfeited. If a family is unable to fulfill their goals set forth in their contract after they move, the WHA may terminate their FSS participation and forfeit any escrow if the WHA is still responsible for the family's contract.

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FSS Participants from other PHA jurisdictions who exercise portability into WHA's jurisdiction will receive preference on the FSS waiting list. It is the responsibility of the family to contact and complete all necessary steps in order to enter into a new FSS Contract of Participation in accordance with HUD guidelines.

## 15.2.2 HUD- Veterans Affairs Supportive Housing (HUD-VASH)

The HUD-Veterans Affairs Supportive Housing (HUD-VASH) program combines Housing Choice Voucher rental assistance for homeless Veterans with case management and clinical services provided by the Department of Veterans Affairs (VA). VA provides these services for participating Veterans at VA medical centers (VAMCs) and community-based outreach clinics.

In general, HUD-VASH vouchers are administered in accordance with the HCV tenant-based rental assistance regulations set forth at 24 CFR part 982. However, this section describes the waivers or alternative requirements that are exceptions to the normal HCV requirements.

### a. Family Eligibility and Selection:

HUD- VASH eligible families are homeless veterans and their families. VA HUD-VASH case managers will refer HUD-VASH eligible families to the WHA for the issuance of vouchers. The WHA must accept such referrals. The WHA does not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers.

VA HUD-VASH case managers will screen all families in accordance with VA screening criteria. The WHA relinquishes its authority to determine the eligibility of families in accordance with regular HCV program rules and WHA policies.

The WHA does not have the authority to screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR §§ 982.552 and 982.553. However, the one exception to this is that the WHA is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. If the individual that is subject the lifetime registration requirement under a state sex offender program is not the homeless veteran, the family may be served if the family agrees to remove the sex offender from its family composition.

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When adding a family member after the HUD–VASH family has been admitted to the program, the rules of 24 C.F.R. § 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the WHA must approve additional family members and may apply its regular screening criteria in doing so.

In regard to verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable in accordance with 24 C.F.R. § 5.216(g). In the case of the homeless veteran, the WHA shall accept the Certificate of Release or Discharge from Active Duty (DD–214) or the VA-verified Application for Health Benefits (10–10EZ) as verification of SSN and shall not require the veteran to provide a SSN card. These documents shall also be accepted for proof-of-age purposes in lieu of birth certificates or other WHA-required documentation.

b. Termination of Assistance:

A HUD–VASH participant family shall not be terminated after admission, for a circumstance or activity that occurred before admission and was known to the WHA, but could not be considered at the time of admission due to the HUD–VASH Operating Requirements. The WHA can terminate the family’s assistance only for program violations that occur after the family’s admission to the voucher program.

c. Income Eligibility:

The WHA determines income eligibility for HUD–VASH families in accordance with 24 CFR § 982.201. However, income-targeting requirements do not apply.

d. Initial Term of the Voucher:

HUD-VASH vouchers have an initial search term of at least 120 days.

e. Initial Lease Term:

To provide a greater range of housing opportunities for HUD–VASH voucher holders, initial leases may be less than 12 months; therefore, both section 8(o)(7)(A) of the 1937 Act (42 U.S.C. 1437f(o)(7)(A)) and 24 CFR 982.309(a)(2)(ii) are waived.

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f. Ineligible Housing:

HUD–VASH families will be permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2) which prohibits units on the physical grounds of a medical, mental, or similar public or private institution, is waived for that purpose only.

g. Mobility and Portability of HUD-VASH Vouchers:

An eligible family that is issued a HUD–VASH voucher must receive case management services provided by the partnering VAMC or Community- Based Outpatient Clinics (“CBOC”). Therefore, special mobility and portability procedures must be established. HUD–VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by VA HUD–VASH case managers at the partnering VAMC or CBOC. If the family no longer requires case management, there are no portability restrictions and normal portability rules apply.

h. Case Management Requirements:

As a condition of receiving HCV rental assistance, a HUD–VASH-eligible family must receive the case management services as required from the VAMC or CBOC. Therefore, a HUD–VASH participant family’s HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC. However, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such a case, at its option, the WHA may offer the family continued HCV assistance through one of its regular vouchers, to free up the HUD–VASH voucher for another eligible family referred by the VAMC or CBOC. If the WHA has no voucher to offer, the family will retain its HUD–VASH voucher until such time as the PHA has an available voucher for the family.

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## 15.3. Temporary Policy Statement- Emergency Housing Vouchers (EHV)

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible WHAs and set forth the operating requirements for WHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible WHAs of the number of EHVs allocated to their agency, and WHAs were able to accept or decline the invitation to participate in the program.

WHAs may not project-based EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the WHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and WHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

15.3.1: Funding

15.3.2: Partnering Agencies

15.3.3: Waiting List Management

15.3.4: Family Eligibility

15.3.5: Housing Search and Leasing

15.3.6: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.



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## 15.3.1 FUNDING

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other WHA programs or vouchers. The WHA must maintain separate financial records from its regular HCV funding for all EHV funding.

### **Housing Assistance Payments (HAP) Funding**

ARP funding obligated to the WHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the WHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the WHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

### **Administrative Fee and Funding**

The following four types of fees and funding are allocated as part of the EHV program:

**Preliminary fees** support immediate start-up costs that the WHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:

- \$400 per EHV allocated to the WHA, once the consolidated annual contributions contract (CACC) is amended.
- This fee may be used for any eligible administrative expenses related to EHVs.
- The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).

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**Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHV's:

- \$100 for each EHV initially leased, if the WHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
- Placement fees:
  - o \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
  - o \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
  - o HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
- Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.

**Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:

- WHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
- Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.

**Services fees**, which are a one-time fee to support WHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):

- The fee is allocated once the WHA's CACC is amended to reflect EHV funding.
- The amount allocated is \$3,500 for each EHV allocated.

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## SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The WHA must establish the eligible uses and the parameters and requirements for service fees in the WHA's administrative plan.

### WHA Policy

The eligible uses for service fees include:

The maximum amount of service fees to be paid out on behalf of each eligible EHV voucher holder is set at \$2,500. Documentation must be provided along with the EHV Service Fees Check-list. It is at the discretion of WHA to increase the amount set, and also to determine the amount of relief paid depending on total balance, need and availability of funds. The WHA will determine which items are approved and in which order of priority. The WHA will continue to pay for service fees for EHV voucher holders until the funds run out or the program ends, whichever comes first.

**Housing search assistance**, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and WHA forms, and helping to expedite the EHV leasing process for the family.

**Security deposit assistance.** The amount of the security deposit assistance may not exceed the one month's rent to owner. The WHA will pay the security deposit assistance directly to the owner, unless the funds are available through another source.

**Utility deposit assistance/utility arrears.** The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The WHA may pay the utility deposit assistance directly to the utility company. The WHA will require the utility supplier to return the utility deposit assistance to the WHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The WHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the WHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

**Owner recruitment and outreach for EHV's.** The WHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or

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otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

**Owner incentive payments.** The WHA will make incentive payments in the amount of \$500 to owners that agree to initially lease their unit to an EHV family

Payments will be made as a single payment at the beginning of the assisted lease term. Owner incentive payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

**Moving expenses** The WHA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The WHA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the WHA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

**Tenant-readiness services.** The WHA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

**Essential household items.** The WHA may use services fee funding of up to \$250 to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

**Renter's insurance if required by the lease.** The WHA may choose to assist the family with some or all this cost for the first year.

Any services fee assistance that is returned to the WHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the WHA's EHV program ends must be remitted to HUD.

### 15.3.2 PARTNERING AGENCIES

#### **CONTINUUM OF CARE (CoC)**

WHAs that accept an allocation of EHV's are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

#### WHA Policy

The WHA has entered into an MOU with **Central Mass Housing Alliance**. See Exhibit TPS-1 for a copy of the MOU.

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## REFERRALS

### CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with the WHA is to make direct referrals of qualifying individuals and families to the WHA. The WHA must generally refer a family that is seeking EHV assistance directly from the WHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV. The CoC or other direct referral partner must provide supporting documentation to the WHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

### WHA Policy

The CoC or partnering agency must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the WHA. The CoC or other partnering agency must certify that the EHV applicants they refer to the WHA meet at least one of the four EHV eligibility criteria. The WHA will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless service providers may, but are not required to, use the certification form found in Exhibit TPS-2 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit TPS-3 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the WHA and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The WHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the WHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

### Offers of Assistance with CoC Referral

The WHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the WHA's Emergency Transfer Plan (ETP)..

The WHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the WHA; or

# Special Housing Types and Programs

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- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the WHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the WHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit the WHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

## 15.3.3 WAITING LIST MANAGEMENT

### HCV WAITING LIST

The regulation that requires the WHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies does not apply to WHAs operating the EHV program. Direct referrals are not added to the WHA's HCV waiting list.

The WHA must inform families on the HCV waiting list of the availability of EHV's by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

#### WHA Policy

The WHA will post information about the EHV program for families on the WHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which EHV's are limited

- Clearly state that the availability of these EHV's is managed through a direct referral process

- Advise the family to contact the CoC (or any other WHA referral partner, if applicable) if the family believes they may be eligible for EHV assistance

The WHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities. The WHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

### EHV WAITING LIST

The HCV regulations requiring the WHA to operate a single waiting list for admission to the HCV program do not apply to WHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHV's available, the WHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to WHA policies regarding opening and closing the HCV waiting list. The WHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

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## PREFERENCES

### HCV Waiting List Preferences

If local preferences are established by the WHA for HCV, they do not apply to EHV. However, if the WHA has a homeless preference or a VAWA preference for the HCV waiting list, the WHA must adopt additional policies related to EHV in accordance with Notice PIH 2021-15.

#### WHA Policy

Refer to WHA VAWA Policy

### EHV Waiting List Preferences

The WHA has not establish any local preferences for the EHV waiting list. Date and time of application are the sole determining factors relative to applicant selection.

#### WHA Policy

No local preferences have been established for the EHV waiting list.

## 15.3.4 FAMILY ELIGIBILITY

### OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the WHA. The WHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the WHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The WHA must retain this documentation as part of the family's file.

### WHA SCREENING

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## Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, WHA policies regarding denials do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the WHA must approve additional family members and may apply its regular HCV screening criteria.

## Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The WHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

## WHA Policy

While the WHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the WHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

## Permissive Denial

Notice PIH 2021-15 lists permissive prohibitions for which the WHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the WHA intends to establish permissive prohibition policies for EHV applicants, the WHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

## WHA Policy

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In consultation with the CoC, the WHA will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance..

The WHA will establish the following permissive prohibitions:

If the WHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity;

Other 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;

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months;

If the family engaged in or threatened abusive or violent behavior toward WHA personnel within the previous 12 months.

The WHA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the WHA **will not** deny an EHV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A WHA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the WHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any WHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

The family breached an agreement with the WHA to pay amounts owed to a WHA, or amounts paid to an owner by a WHA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the WHA in accordance with 24 CFR 982.553(a)(3);

The WHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

### **INCOME VERIFICATION AT ADMISSION**

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## Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, WHAs may consider self-certification the highest form of income verification at admission. As such, WHA policies related to the verification of income do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the WHA's request.

## WHA Policy

Any documents used for verification must be dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the WHA and must be signed by the family member whose information or status is being verified.

The WHA will incorporate additional procedures to remind families of the obligation to provide true and complete information. The WHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The WHA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the excess subsidy, the WHA may terminate the family's assistance.

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## Recently Conducted Income Determinations

WHAs may accept income calculations and verifications from third-party providers or from an examination that the WHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

### WHA Policy

The WHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the WHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the WHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and WHA policies.

### **EIV Income Validation**

Once HUD makes the EIV data available to WHAs under this waiver and alternative requirement, the WHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, WHA must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with WHA policies.

If a WHA later determines that an ineligible family received assistance, the WHA must take steps to terminate that family from the program in accordance with Chapter 12.

## **TPS-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION**

For the EHV program, the WHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, WHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the WHA provides an extension based

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## Special Housing Types and Programs

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on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a WHA determines that an ineligible family received assistance, the WHA must take steps to terminate that family from the program.

### WHA Policy

The WHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation within 180 days of admission. The WHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the WHA determines that an ineligible family received assistance, the WHA will take steps to terminate that family from the program.

### **AGE AND DISABILITY VERIFICATION**

WHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the WHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a WHA determines that an ineligible family received assistance, the WHA must take steps to terminate that family from the program.

### WHA Policy

The WHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the WHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the WHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The WHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the WHA determines that an ineligible family received assistance, the WHA will take steps to terminate that family from the program

### **INCOME TARGETING**

The WHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and WHA policy; however, income targeting requirements do not apply for EHV families. The WHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

### WHA Policy

The WHA will not include the admission of extremely low-income EHV families in its

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income targeting numbers for the fiscal year in which these families are admitted.

## 15.3.5 HOUSING SEARCH AND LEASING

The WHA shall verify all factors affecting eligibility and will maintain documentation relating to the third party verification in the applicant file. In those instances when third party verification is not available, the WHA shall document the reasons for the failure to secure third party verification.

### INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. Extensions will be provided in accordance with the current WHA HCV policies

#### WHA Policy

All EHV's will have an initial term of 120 calendar days.

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

### HOUSING SEARCH ASSISTANCE

The WHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the WHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and WHA forms; and
- Help expedite the EHV leasing process for the family

#### WHA Policy

As identified in the MOU between the WHA and CoC, the following housing search assistance will be provided to each EHV family:

The WHA will:

Conduct owner outreach;

Provide directions to potential units as part of the EHV briefing packet;

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter;

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At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date;

Assign a dedicated landlord liaison for EHV voucher families.

The CoC will:

Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods

Provide transportation assistance to potential units

Assist the family with the completion of rental applications and WHA forms

## **HQS PRE-INSPECTIONS**

To expedite the leasing process, WHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

## **INITIAL LEASE TERM**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the WHA policy.

## **PORTABILITY**

The normal HCV portability procedures and requirements generally apply to EHV's. Exceptions are addressed below.

### **Nonresident Applicants**

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial WHA when they applied, regardless of WHA policy.

### **Billing and Absorption**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the WHA administers EHV's under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV's under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving's EHV policies.

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- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial.

### **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial WHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

### WHA Policy

In addition to following WHA policy on briefings, as part of the briefing packet for EHV families, the WHA will include a written notice that the WHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the WHA will provide interpretation services in accordance with the WHA's LEP plan.

### **Coordination of Services**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

### WHA Policy

For EHV families who are exercising portability, when the WHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the WHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial may provide to the receiving PHA on behalf of the family.

### **Services Fee**

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

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- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

## **Placement Fee/Issuance Reporting Fee**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

## **PAYMENT STANDARDS**

### **Payment Standard Schedule**

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the WHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the WHA is increasing the regular HCV payment standard, the WHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the WHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a WHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The WHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
  - The WHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

### WHA Policy



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The WHA will not establish a higher payment standard amount for EHV. The WHA will use the same payment standards for HCV and EHV.

## **Rent Reasonableness**

All rent reasonableness requirements apply to EHV units, regardless of whether the WHA has established an alternative or exception EHV payment standard.

## **Increases in Payment Standards**

The requirement that the WHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The WHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

## WHA Policy

The WHA will not establish an alternative policy for increases in the payment standard. WHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

## **TERMINATION OF VOUCHERS**

After September 30, 2023, a WHA may not reissue EHV when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the WHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct WHAs administering EHV to cease leasing any unleased EHV if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

## **15.3.6 USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS**

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice.

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Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15 and 2021-20.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV in accordance with the HCV program requirements at 24 CFR 982.158.

### 15.3.7 Exhibit TPS-1: MEMORANDUM OF UNDERSTANDING (MOU)

#### *Attachment 2 of Notice PIH 2021-15 - Sample MOU Template*

##### **Memorandum of Understanding**

**[\*\* This sample document demonstrates the Memorandum of Understanding requirements for the administration Emergency Housing Voucher. Unless otherwise noted, all elements are required. \*\*]**

This Memorandum of Understanding (MOU) has been created and entered into on  
[\*\* *Insert execution date.* \*\*].

[PHA Name and Address]

[CoC Name and Address]

- I. Introduction and Goals (the following elements, listed in a. – c., are required elements of the MOU):
- a. PHA and CoC's commitment to administering the EHV in accordance with all program requirements.
  - b. PHA goals and standards of success in administering the program.
  - c. Identification of staff position at the PHA and CoC who will serve as the lead EHV liaisons.
- Lead HCV Liaison:

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[Name and title of PHA staff position]

Responsibilities of the PHA EHV liaison [\*\*Optional\*\*].

[Name and title of CoC staff position]

Responsibilities of the CoC EHV liaison [\*\*Optional\*\*].

## II. Define the populations eligible for EHV assistance to be referred by CoC.

### Services to be provided to eligible EHV families

1. List the services to be provided to assist individuals and families have success in the program and who will provide them.

[\*\*The following services are listed for example purposes. \*\*]

1. Partnering service providers will support individuals and families in completing applications and obtaining necessary supporting documentation to support referrals and applications for assistance; while aiding households in addressing barriers.
2. Partnering service providers will support PHAs in ensuring appointment notifications to eligible individuals and families and will assist eligible households in getting to meetings with the PHA.
3. PHAs will establish windows of time for EHV applicants to complete intake interviews for EHV.
4. Partnering service providers will provide housing search assistance for eligible individuals and families.
5. Partnering service providers will provide counseling on compliance with rental lease requirements.
6. Partnering service providers will assess individuals and families who may require referrals for assistance on security deposits, utility hook-up fees, and utility deposits.
7. Partnering service providers will assess and refer individuals and families to benefits and supportive services, where applicable.

## III. PHA Roles and Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Coordinate and consult with the CoC in developing the services and assistance to be offered under the EHV services fee.
2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry System.
3. Commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner.
4. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner.

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5. Designate a staff to serve as the lead EHV liaison.
6. Comply with the provisions of this MOU.

## CoC Roles and Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Designate and maintain a lead EHV liaison to communicate with the PHA.
2. Refer eligible individuals and families to PHA using the community's coordinated entry system.
3. Support eligible individuals and households in completing and applying for supportive documentation to accompany admissions application to the PHA (i.e. self-certifications, birth certificate, social security card, etc.).
4. Attend EHV participant briefings when needed.
5. Assess all households referred for EHV for mainstream benefits and supportive services available to support eligible individuals and families through their transition.
6. Identify and provide supportive services to EHV families. (While EHV participants are not required to participate in services, the CoC should assure that services are available and accessible.)
7. Comply with the provisions of this MOU.

## IV. Third Party Entity Roles Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Describe how the State, local, philanthropic, faith-based organizations, Victim Service Providers or CoC recipients it designates will fulfill each of the following responsibilities:
  - a. Outline resource and/or service being provided in support of the community's EHV Program. Commit a sufficient number of staff and necessary resources to ensure that the application, certification and voucher issuance processes are completed in a timely manner.
  - b. Comply with the provisions of this MOU. VII. Program Evaluation

The PHA, and CoC or designated CoC recipient agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor, including possible random assignment procedures.

[Signed and dated by the official representatives of the PHA, CoC, CoC Contractor organization (if applicable), and third-party entities (if applicable).]

Signed by

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CEO, WHA, Alex Corrales

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Date

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CoC Executive Director, Leah Bradley

Date

## 15.3.8 Exhibit TPS-2: HOMELESS PROVIDER'S CERTIFICATION

*Attachment 3 of Notice PIH 2021-15 Example of a Homeless Provider's Certification*

### Emergency Housing Voucher (EHV)

### HOMELESS CERTIFICATION

EHV Applicant Name: \_\_\_\_\_

Household without dependent children (complete one form for each adult in the household)

Household with dependent children (complete one form for household)

Number of persons in the household: \_\_\_\_

**This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation-**

**Check only one box and complete only that section**

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**Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)**

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or camp ground.

Description of current living situation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Homeless Street Outreach Program

Name: \_\_\_\_\_

*This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.*

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Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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# Special Housing Types and Programs

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## Living Situation: Emergency Shelter

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name: \_\_\_\_\_

*This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).*

Authorized Agency Representative Signature: \_\_\_\_\_

Date

: \_\_\_\_\_

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## Living Situation: Recently Homeless

The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (ex. Households in Rapid Rehousing Programs, residents of Permanent Supportive Housing Programs participating in Moving On, etc.)

Authorized Agency Representative Signature: \_\_\_\_\_

*This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.*

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

emergency shelter OR  a place unfit for human habitation

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## 16.9 Exhibit TPS-3: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION

*Attachment 4 of Notice PIH 2021-15: Example of a Victim Services Provider's Certification*

## Emergency Housing Voucher (EHV)

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## SAMPLE HUMAN TRAFFICKING CERTIFICATION

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### Purpose of Form:

The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other Federally-funded social service programs available to assist victims in rebuilding their lives.

### Use of This Optional Form:

In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (PHA) to certify eligibility for EHV assistance.

**Confidentiality:** All information provided to the service provider concerning the incident(s) of human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the PHA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

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### TO BE COMPLETED ON BEHALF OF HUMAN TRAFFICKING SURVIVOR

EHV Applicant Name: \_\_\_\_\_

**This is to certify that the above named individual or household meets the definition for persons who are fleeing or attempting to flee human trafficking under section 107(b) of the Trafficking Victims Protection Act of 2000.**

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual(s) named above is/has been a victim of human trafficking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction

**Authorized Agency Representative Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_