



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

Amendment Date	Amendment Date
October 20, 2016	September 16, 2021
June 15, 2017	January 27, 2022
October 19, 2017	March 17, 2022
June 21, 2018	April 21, 2022
July 19, 2018	February 16, 2023
December 20, 2018	May 18, 2023
November 21, 2019	October 19, 2023
February 18, 2021	

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Introduction and Policy

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

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

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.

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 is provided. This website is a nationwide rental-listing service for the Section 8 housing market.

Applications

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 630 Plantation Street, Worcester, MA 01605, at www.worcesterha.org and 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 630 Plantation Street, Worcester, MA 01605 and at www.worcesterha.org. 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

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), if 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

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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 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

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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	
Ranking				
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:

- The applicant resides in WHA public housing, mixed finance development or Faircloth-to-RAD, and;

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- The applicant family is being temporarily displaced, relocated, or program status is impacted due to Action of Housing Owner that includes public housing repositioning, 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 they remain 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 WHA 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 is not an appropriate sized unit.
- 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 lifethreatening 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 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;

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- 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;
- Property owner referral and completion of "Displacement by Action of Housing Owner" form that is approved by WHA intake.
- 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

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.

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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.

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

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

- 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

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

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

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

- 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

Eligibility

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.

Eligibility

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.

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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

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

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. 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

Voucher Issuance, Briefing, and Housing Search

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

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. 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,

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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

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

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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

- 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.

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INCLUDED AND EXCLUDED INCOME BY PERSON		
Family Members	Employment Income	Other Income (Including Income from Assets)
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
Other Household Members		
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:

- Identifying all current and anticipated sources of income;
- Verifying all income sources and amounts; and
- 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

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

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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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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.

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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).

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The following chart indicates common asset inclusions and exclusions:

A. ASSETS INCLUDE:	B. ASSETS DO NOT INCLUDE:
<ol style="list-style-type: none">1. Amounts in savings and checking accounts.2. Stocks, bonds, savings certificates, money market funds and other investment accounts.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.4. The cash value of trusts that may be withdrawn by the family.5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.6. Some contributions to company retirement/ pension funds. Note the discussion below on accessibility of the funds.7. Assets, which although owned by more than one person, allow unrestricted access by the applicant.8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.9. Personal property held as an investment	<ol style="list-style-type: none">1. Necessary personal property, except as noted in A.9.2. Interest in Indian trust lands.3. Assets that are part of an active business or farming operation.4. NOTE: 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.5. Assets not controlled by or accessible to the family and which provide no income for the family.6. Vehicles especially equipped for the disabled.7. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

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

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.

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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

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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.

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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

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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:

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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

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; As of February 16, 2023, this section shall be stricken, and the remainder of this section will be enforced. Current participants may be eligible to request an additional bedroom on their voucher.~~

Subsidy Standards and Family Share Calculation

- 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:

Family Unit Size	Minimum Number of Persons in	Maximum Number of Persons in
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

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

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

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).

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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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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

- 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

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

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

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

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

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

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

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

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;

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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.

Leasing

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.

Leasing

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

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

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 (10th) 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

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 15th 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 31st of the month and they do not vacate until the 3rd 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

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

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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

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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

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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.

Reexaminations

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

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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.

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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.

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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.

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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:

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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

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.

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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,

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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

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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 are 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.

Terminations and Hearings

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.

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13. PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and WHA policies related to the project-based voucher (PBV) program in nine parts:

13.1: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

13.2: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the WHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

13.3: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

13.4: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

13.5: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

13.6: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

13.7: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

13.8: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

13.9: Payments to Owner. This part describes the types of payments owners may receive under this program.

Project-Based Vouchers

13.1: GENERAL REQUIREMENTS

13.1.1 OVERVIEW [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

The project-based voucher (PBV) program allows PHA that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHA may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

The WHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

See Exhibit 13-1 for information on projects to which the WHA has attached or will be attaching PBV assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (AHAP) or a HAP contract, the PHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice

1/24/22] The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap.

For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
 - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

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The WHA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

The WHA may project-base units not subject to the 20 percent cap in accordance with HUD regulations and requirements.

13.1.2 TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the WHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

13.1.3 RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances. The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

13.1.4 EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

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The WHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the WHA must comply with the WHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

13.2: PBV OWNER PROPOSALS

13.2.1 OVERVIEW

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

13.2.2 OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21; 24 CFR 983.51(b)]

For certain public housing projects where the PHA has an ownership interest or control, the PHA may attach PBV assistance non-competitively without following one of the two processes above. This exception applies when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the PHA entered into the AHAP or HAP.

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If the PHA is planning rehabilitation or new construction on the project, a minimum threshold of \$25,000 per unit in hard costs must be expended.

If the PHA plans to replace public housing by attaching PBV assistance to existing housing in which the PHA has an ownership interest or control, then the \$25,000 per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

The PHA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

The WHA will attach PBVs to projects where the WHA has an ownership interest as described above.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

PHA procedures for selecting PBV proposals must be designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

WHA Request for Proposals for Rehabilitated and Newly Constructed Units.

The WHA will publish a RFP in a newspaper of general circulation and will make the RFP available on its website (www.worcesterha.org). The public notice must specify the submission deadline. The WHA will provide detailed application and selection criteria at the request of interested parties.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the RFP and proposal submission and rating and ranking procedures on its website.

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the WHA is making available. Proposals will be due in the WHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the WHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will

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not be reviewed.

The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;

- Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

- In order to promote partially assisted projects, projects where less than 25 percent of the units will be assisted will be rated higher than projects where 25 percent or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

PHA Requests for Proposals for Existing Housing Units

The WHA will publish a RFP in a newspaper of general circulation and will make the RFP available on its website (www.worcesterha.org). The public notice must specify the submission deadline. The WHA will provide detailed application and selection criteria at the request of interested parties.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

The PHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the WHA estimates that it will be able to assist under the funding the WHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

- Extent to which the project furthers the WHA goal of deconcentrating poverty and expanding housing and economic opportunities;

- If applicable, extent to which services for special populations are provided on site

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or in the immediate area for occupants of the property; and Extent to which units are occupied by families that are eligible to participate in the PBV program.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The PHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The PHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

The WHA will publish a RFP in a newspaper of general circulation and will make the RFP available on its website (www.worcesterha.org). The public notice must specify the submission deadline. The WHA will provide detailed application and selection criteria at the request of interested parties.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition to, or in place of advertising, the PHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The PHA will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community.

WHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21] A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. This also applies to noncompetitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

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In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

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

For project which WHA has an ownership interest in, WHA will use the HUD Field Office or another HUD-approved entity to review the WHA PBV selection process and will obtain HUD approval of any independent entity prior to selecting the PBV proposal.

The PHA may only compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

WHA Notice of Owner Selection [24 CFR 983.51(d)]

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

Within 10 business days of the WHA making the selection, the WHA will notify the selected owner in writing of the owner's selection for the PBV program. The WHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the WHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the WHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The WHA will also post the notice of owner selection on its electronic web site.

The WHA will make available to any interested party its rating and ranking sheets and documents that identify the WHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The WHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The WHA will make these documents available for review at the WHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

13.2.3 HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed

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or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

13.2.4 PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 CFR 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by

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HUD or the PHA in accordance with HUD requirements.

13.2.5 SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 2/28/20]

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 2/28/20 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

13.2.6 CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]

As of April 18, 2017, units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

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- If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020.

Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

Supportive Services

PHA must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

WHA will implement the exception to the Project Cap on Curtis Apartments and Lakeside Apartments and any other public housing repositioning opportunity.

Promoting Partially Assisted Projects [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 units or 25 percent of units.

WHA may elect to provide PBV assistance to excepted units at its discretion.

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13.2.7 SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(I).

It is the WHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the WHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the WHA will grant exceptions to the 20 percent standard where the WHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

A census tract in which the proposed PBV development will be located in a HUD- designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

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Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The WHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the WHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

13.2.8 ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

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In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

13.3: DWELLING UNITS

13.3.1 OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

13.3.2 HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program. The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

13.3.3 HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

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

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

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13.3.4 INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

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

Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]

The WHA must inspect each contract unit before execution of the HAP contract. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

The WHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

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

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. The PHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

The WHA will inspect on an annual basis 100 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

Other Inspections [24 CFR 983.103(e)]

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

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violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

13.4: REHABILITATED AND NEWLY CONSTRUCTED UNITS

13.4.1 OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

13.4.2 AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the WHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The WHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and 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 [24 CFR 983.152(a)].

Content of the Agreement [24 CFR 983.152(d)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;

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- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
 - Estimated initial rents to owner for the contract units;
 - Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

The WHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

13.4.3 CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis- Bacon wages to laborers and mechanics employed in the development of housing. The HUD- prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The WHA must monitor compliance with labor standards.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of

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the Agreement, the HAP contract, or HUD regulations.

13.4.4 COMPLETION OF HOUSING

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

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

The WHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The WHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

WHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner 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 HQS and any additional requirements imposed under the Agreement. The WHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the WHA must not enter into the HAP contract.

If the WHA determines the work 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 contract for execution by the owner and must then execute the HAP contract.

13.5: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

13.5.1 OVERVIEW

The WHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for

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eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

13.5.2 HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The WHA may not enter into a HAP contract until each contract unit has been inspected and the WHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the WHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the WHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the WHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

For existing housing, the HAP contract will be executed within 10 business days of the WHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the WHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

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The WHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 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 20 years. In the case of WHA-owned units, the term of the HAP contract must be agreed upon by the WHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the WHA may extend the term of the contract for an additional term of up to 20 years if the WHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A WHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the WHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of WHA-owned units, any extension of the term of the HAP contract must be agreed upon by the WHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

When determining whether or not to extend an expiring PBV contract, the WHA will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by WHA [24 CFR 983.205(c) and FR Notice 1/18/17]

The HAP contract must provide that the term of the WHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by

the WHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance

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payments for all contract units and for the full term of the HAP contract, the WHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the WHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the WHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The WHA must provide the family with a voucher and the family must also be given the option by the WHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the WHA HCV tenant-based program and are not subject to income eligibility requirements or any other

admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.208(b)]

The WHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the WHA determines that a contract does not comply with HQS, the WHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

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The WHA will abate for non-compliance with HQS and continue to abate until the unit is in compliance with HQS. All interested parties will be notified of the abatement.

13.5.3 AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the WHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the WHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The WHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

The WHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

13.5.4 HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

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

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

13.5.5 OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under

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the HAP contract and the leases;

- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

13.5.6 ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

The WHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The WHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

The WHA will not provide vacancy payments to the owner of a project-based property.

13.6: SELECTION OF PBV PROGRAM PARTICIPANTS

13.6.1 OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are

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requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

13.6.2 ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

The WHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Section 4.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

13.6.3 ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA

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must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance. If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

The WHA will establish and manage three separate waiting lists for individual projects or buildings that are receiving PBV assistance, specifically, one list for Curtis Apartments, one list for lakeside Apartments, and one list for all other project-based developments. The WHA reserves the right to open waitlist lists for certain preferences only.

13.6.4 SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-

income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

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If the PHA has projects with “excepted units” for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

The WHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The WHA will use the same selection preferences that are used for the tenant-based voucher program for the PBV program or for particular PBV projects or units. The WHA may open a closed waiting list to certain preferences only, and in doing so, will make sure in the waitlist opening public announcement that only applicants meeting certain preference requirements are eligible to apply.

13.6.5 OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the WHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the WHA must provide a briefing packet that explains how the WHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family’s head or spouse is disabled, the WHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available. In addition, the WHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

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The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

13.6.6 OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the WHA from the WHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the WHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

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

The owner must notify the WHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The WHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

If any contract units have been vacant for 120 days, the WHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. At its discretion the WHA will keep the unit on the contract. The WHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the WHA's notice.

13.6.7 TENANT SCREENING [24 CFR 983.255]

WHA Responsibility

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The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

The WHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

The WHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The WHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

13.7: OCCUPANCY

13.7.1 OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

13.7.2 LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the

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terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a WHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

The WHA will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

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

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

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

Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The WHA terminates the HAP contract

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The WHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the WHA a copy of all changes. The owner must notify the WHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the WHA and in accordance with the terms of the lease relating to its amendment. The WHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by WHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. WHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the WHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the WHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant.

In compliance with state law, the owner may only collect the value of one month’s rent for security deposit.

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When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The WHA has no liability or responsibility for payment of any amount owed by the family to the owner.

13.7.3 MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

The WHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the WHA's determination. The WHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

When the WHA offers a family another form of assistance that is not a tenant-based

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voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the WHA will terminate the housing assistance payments at the expiration of this 30-day period.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the WHA. If the family wishes to move with continued tenant-based assistance, the family must contact the WHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the WHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the WHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

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

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the WHA will follow VAWA policies.

13.7.4 EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR

Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

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Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant’s needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

The WHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members’ control.

In all other cases, the WHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the WHA will terminate the housing assistance payments at the expiration of this 30-day period.

13.8: DETERMINING RENT TO OWNER

13.8.1 OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

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During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

13.8.2 RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements

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- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

The WHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the WHA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date. Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standards amount for use in the PBV program. Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Upon written request by the owner, the WHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The WHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the WHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the WHA determines it is necessary due to WHA budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner

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selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

The WHA will not apply SAFMRs to the WHA's PBV program.

Redetermination of Rent [24 CFR 983.302]

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no

provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

An owner's request for a rent increase must be submitted to the WHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

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The WHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

WHA-Owned Units [24 CFR 983.301(g)]

For WHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD.

The WHA must use the rent to owner established by the independent entity.

13.8.3 REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

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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 PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for WHA-owned units to the WHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the WHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

13.8.4 EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a WHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

13.9: PAYMENTS TO OWNER

Project-Based Vouchers

13.9.1 HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the WHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the WHA agree on a later date.

Except for discretionary vacancy payments, 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).

The amount of the housing assistance payment by the WHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

13.9.2 TENANT RENT TO OWNER [24 CFR 983.353]

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

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the WHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the WHA. The owner must immediately return any excess payment to the tenant.

Tenant and WHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the WHA.

Likewise, the WHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The WHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The WHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

Project-Based Vouchers

If the amount of the utility allowance exceeds the total tenant payment, the WHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

The WHA will make utility reimbursements to the family.

13.9.3 OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

Project-Based Vouchers

EXHIBIT 13-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

Date: March 22, 2023

DEVELOPMENT INFORMATION

Development Name: Curtis Apartments

Address: 32 Great Brook Valley Ave, Worcester, MA 01605

Owner Information: TBD

Property Management Company: TBD

PHA-Owned: No

Mixed Finance Development: Yes, LIHTC and State funds [Enter "Yes" or "No." If yes, list other types of funding (i.e., LIHTC, HOME, etc.) and units to which other funding applies.]

HAP CONTRACT

Effective Date of Contract: TBD

HOTMA Requirements: Post-HOTMA "Post-HOTMA."] **Term of HAP**

Contract: 15 years to 20 years

Expiration Date of Contract: TBD

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units	TBD						
Initial Contract Rent	\$ TBD	\$	\$	\$	\$	\$	

PBV UNITS

Structure Type: TBD

Housing Type: Family

Project-Based Vouchers

			Provided By (Tenant/Owner)
Heating	Electric	Tenant	Owner
Cooking	Electric	Tenant	Owner
Water Heating	Electric	Tenant	Owner
Other Electric		Tenant	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Tenant	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: TBD

Target Population: Family

Excepted Units: the RAD Faircloth Units will be excepted.

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Same as HCV; see Section 3

Preference Verification: Same as HCV; see Section 3

For the PBV program, is the income limit the same as the HCV program?
Yes.

OCCUPANCY

Subsidy Standards: Same as HCV, see Section 7.

Vacancy Payments: None

EXHIBIT 13-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

Date: September 15, 2023

DEVELOPMENT INFORMATION

Development Name: Lakeside Apartments

Project-Based Vouchers

Address: 30 Lakeside Ave., Worcester, MA 01610

Owner Information: TBD

Property Management Company: TBD

PHA-Owned: No

Mixed Finance Development: Yes, LIHTC and State funds [Enter "Yes" or "No." If yes, list other types of funding (i.e., LIHTC, HOME, etc.) and units to which other funding applies.]

HAP CONTRACT

Effective Date of Contract: TBD

HOTMA Requirements: Post-HOTMA "Post-HOTMA."]

Term of HAP Contract: 15 years to 20 years

Expiration Date of Contract: TBD

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units	TBD						
Initial Contract Rent	\$ TBD	\$	\$	\$	\$	\$	

PBV UNITS

Structure Type: TBD

Housing Type: Family

Project-Based Vouchers

			Provided By (Tenant/Owner)
Heating	Electric	Tenant	Owner
Cooking	Electric	Tenant	Owner
Water Heating	Electric	Tenant	Owner
Other Electric		Tenant	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Tenant	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: Yes, 10%

Target Population: Family

Excepted Units: the RAD/Section 18 Faircloth Units will be excepted.

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Same as HCV; see Section 3

Preference Verification: Same as HCV; see Section 3

For the PBV program, is the income limit the same as the HCV program?
Yes.

OCCUPANCY

Subsidy Standards: Same as HCV, see Section 7.

Vacancy Payments: None

EXHIBIT 13-2: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units

[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the

Project-Based Vouchers

PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05.

If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family's unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 and Notice H 2023-08 extended some of the alternative requirements to non- RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Section 16 of this policy for the RAD PBV program.

RAD Requirements Applicable to Non-RAD units in the Project

Alternative Requirement under RAD as Listed in Notice PIH 2019-23		
1.6.A.4. Site Selection – Compliance with PBV Goals	Section 13 SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding housing and economic opportunity requirements.	Section 16 SITE SELECTION STANDARDS

Project-Based Vouchers

1.6.B.5.d. PBV Site-Specific Utility Allowances	Alternative requirement under RAD. No corresponding policy in Section 13.	Section 16-VII.C. UTILITY ALLOWANCES
1.6.C.1. No Rescreening of Tenants upon Conversion	Policies contained in Section 4 relating to eligibility do not apply to existing tenants who receive TPVs.	Section 16-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION
1.6.C.2. Right to Return	Alternative requirement under RAD. No corresponding policy in Section 13 .	Section 16-I.D. RELOCATION REQUIREMENTS
1.6.C.3. Phase-in of Tenant Rent Increases	Alternative requirements under RAD. No corresponding policy in Section 13.	Section 16-VIII.D. PHASE-IN OF TENANT RENT INCREASES
1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs	Not covered in administrative plan.	Section 16-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS
1.6.C.5. Resident Participation and Funding	Alternative requirement under RAD. No corresponding policy in Section 13.	Section 16-VI.D. RESIDENT PARTICIPATION AND FUNDING
1.6.C.6. Resident Procedural Rights	Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18.	Section 16-VI.H. RESIDENTS' PROCEDURAL RIGHTS
1.6.C.7. Earned Income Disregard (EID)	Alternative requirements under RAD for in-place residents. New admissions follow policies in Chapter 6.	Section 16-VI.G. EARNED INCOME DISALLOWANCE
1.6.C.8. Jobs Plus	Not covered in administrative plan.	No corresponding policy.
1.6.C.9. When Total Tenant	<u>Alternative requirements</u>	Section 16 LEASE, Continuation

Project-Based Vouchers

Payment Exceeds Gross Rent	under RAD for in-place residents. New admissions follow policies in Section 13 LEASE, Continuation of Housing Assistance Payments.	of Housing Assistance Payments
1.6.C.10. Under-Occupied Unit	Alternative requirements under RAD for in-place residents. New admissions follow Section 13 MOVES, Overcrowded, Under-Occupied, and Accessible Units	Section 16 MOVES, Overcrowded, Under-Occupied, and Accessible Units
1.6.D.4. Establishment of Waiting List	Alternative requirements under RAD for initial establishment of the waiting list. Once waiting list is established, follow Section 13 SELECTION FROM THE WAITING LIST	Section 16 ORGANIZATION OF THE WAITING LIST
1.6.D.10. Initial Certifications and Tenant Rent Calculations	Alternative requirements under RAD for in-place residents. No corresponding policy in Section 13.	Section 16 TENANT RENT TO OWNER, Initial Certifications
Alternative Requirement under RAD as listed in Notice PIH 2023-19 - RAD Supplemental Notice		
Section VII: Housing Quality Standards	Alternative requirements for RAD for HQS inspections prior to executing HAP.	Corresponding policy in Section 13.3.4 Pre-selection Inspections.

Project-Based Vouchers

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.

Special Admissions and Enhanced Vouchers

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

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

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

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

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

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

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

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:

Special Housing Types and Programs

- 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 cooperative or condominium operating charges or maintenance fees assessed 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:

- \$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 months' 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 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

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\$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 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.

WHA Policy

The WHA has entered into an MOU with **Central Mass Housing Alliance**. See Exhibit TPS-1 for a copy of the MOU.

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

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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
- 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

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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 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 are limited

- Clearly state that the availability of these EHV 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 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.

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.

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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

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:

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- 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

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

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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

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

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fails to repay the excess subsidy, the WHA may terminate the family's assistance.

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 on evidence from the family or confirmation from the CoC or other partnering

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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 income targeting numbers for the fiscal year in which these families are admitted.

15.3.5 HOUSING SEARCH AND LEASING

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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;

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

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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. 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 under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV 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.
- 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

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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:

- 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's, 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's, 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

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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

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

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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. 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

Housing
AP §015 Special Housing Types and Programs
WHA Board of Commissioners Approval 10/21/2016

Special Housing Types and Programs

[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):
- PHA and CoC's commitment to administering the EHV's in accordance with all program requirements.
 - PHA goals and standards of success in administering the program.
 - Identification of staff position at the PHA and CoC who will serve as the lead EHV liaisons.

Lead HCV Liaison:

[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

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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.
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

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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

CEO, WHA, Alex Corrales

Date

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

Living Situation: place not meant for human habitation (e.g., cars, parks,

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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.

Authorized Agency Representative Signature: _____

Date: _____

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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

: _____

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: _____

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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)

SAMPLE HUMAN TRAFFICKING CERTIFICATION

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.

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:** _____

16. Project Based Vouchers (PBV) under Rental Assistance Demonstration Program (RAD)

INTRODUCTION

This chapter describes HUD regulations and WHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

16.1: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

16.2: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

16.3: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

16.4: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

16.5: Selection of PBV Program Participants. This part describes the requirements and policies governing how PHA and the owner will select a family to receive PBV assistance.

16.6: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

16.7: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

16.8: Payments to Owner. This part describes the types of payments owners may receive under this program.

16.1: GENERAL REQUIREMENTS

16.1.1. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- ☐ Preserve and improve public and other assisted housing.
- ☐ Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- ☐ Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- ☐ Increase tenant mobility opportunities.

Under the first component, a Public Housing Authority (PHA) with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- ☐ Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- ☐ Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, WHA will refer to the standard PBV program and the RAD PBV program.

16.1.2. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5,

Project Based Vouchers (PBV) under Rental Assistance Demonstration Program

2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements were noted in Notice PIH 2019-23 and in this policy.

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the “RAD Statute.”

Requirements specific to the RAD program may be found in the following:

- ☐ Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing.
 - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
 - ☐ Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
 - Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.
 - ☐ Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.
 - Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
 - ☐ Except with respect to changes in the project eligibility and selection

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criteria, not included in this policy, which are effective after a 30-day comment period.

- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20)
 - RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
 - Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
 - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
 - RAD FAQs (<http://www.radresource.net/search.cfm>)

<u>Project</u>	<u>Closing Date</u>	<u>RAD Notice</u>
Curtis Apartments	TBD	Rev 5 (update when released)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

16.1.3 TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the WHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the WHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only. See Exhibit 16-1 for information on projects to which the WHA has attached RAD PBV assistance.

16.1.4 RELOCATION REQUIREMENTS

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of

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residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.

- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.
- If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.
 - Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:
 - Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
 - The resident cannot be accommodated in the remaining assisted units due to a

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reduction in the number of assisted units at the development;

- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

□ Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

□ In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the WHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the WHA seek to have the resident exercise the right to return at a future phase, the WHA must secure the resident's consent in writing.

□ Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the WHA

16.1.5 EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not

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be turned away or placed on a waiting list due to a lack of accessible units.

16.2: PBV PROJECT SELECTION

16.2.1 OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

16.2.2 OWNERSHIP AND CONTROL [Notice PIH 2019-23]

For projects governed by Notice PIH 2019-23, the following language applies:

□ Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].

□ Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by

HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.

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- Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

□ Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.

□ If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:

- The PHA, or an affiliate under its sole control, is the general partner or managing member;
- The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
- The PHA retains control over leasing the property and determining program eligibility;
- The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
- Other means that HUD finds acceptable

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

□ During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:

- A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or
- A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

16.2.3 PHA-OWNED UNITS [24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity. The independent entity that performs the program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

If units converted to PBV under RAD are WHA-owned housing, the WHA will use a HUD-approved independent entity.

16.2.4 SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23; Notice PIH 2012-32, REV-3; Notice PIH 2012-32, REV-2]

For projects governed by Notice PIH 2019-23, the following language applies:

- ☐ In the case of a PHA that will no longer have Annual Contributions Contract (ACC) units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- ☐ In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating

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reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

- ☐ Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

- ☐ In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the WHA may:
 - Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific WHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
 - Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.
- ☐ In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- ☐ In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved "sources and uses" attached to the RCC.

For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

- ☐ In the case of a PHA that is converting all of its ACC units, there is no restriction on the

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amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

16.2.5 PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23]

PBV Percentage Limitation

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

Unit Cap Limitation

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project. However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, the PHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

- ☐ In general, the PHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the Project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as “excepted units” and do not count toward the project cap.
- ☐ For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

For projects governed by Notice PIH 2012-32, REV-2, the WHA will not provide

RAD PBV assistance for any excepted units.

16.2.6 SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

16.2.7 ENVIRONMENTAL REVIEW [Notice PIH 2019-23; *Environmental Review Requirements for RAD Conversions*, March 2019]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

PART III: DWELLING UNITS

16.3.1 OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

16.3.2 HOUSING QUALITY STANDARDS [24 CFR 983.101]

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The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

16.3.3 HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [Notice PIH 2016-17]

Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

16.3.4 INSPECTING UNITS

Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23]

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

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

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complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the WHA must inspect

a random sample consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

The WHA will inspect on an annual basis 100% of all units to determine if the contract units and the premises are maintained in accordance with HQS.

Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]

The WHA will not rely on alternative inspection standards.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

Inspecting WHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]

In the case of WHA-owned units, all required inspections must be performed by an independent entity designated by the WHA and approved by HUD. 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.

16.4: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

16.4.1 OVERVIEW [RAD PBV Quick Reference Guide 6/20]

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public

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housing projects converted to PBV assistance via RAD enter into a HAP contract with the WHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

16.4.2 HAP CONTRACT REQUIREMENTS

Contract Information [*RAD PBV Quick Reference Guide 6/20*; Notice PIH 2019-23]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621).

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [*RADblast! 7/11/16*]

Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the WHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2019-23]

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to WHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Mandatory Contract Renewal [Notice PIH 2019-23]

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By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to WHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply. In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for HQS Violations [24 CFR 983.208(b)]

The WHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the WHA determines that a contract unit does not comply with HQS, the WHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

The WHA will abate for non-compliance with HQS and continue to abate until the unit is in compliance with HQS. The owner and participant will be notified of the abatement.

16.4.3 AMENDMENTS TO THE HAP CONTRACT Floating Units [Notice PIH 2019-23]

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float (to exchange a unit) among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

The WHA will float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

Reduction in HAP Contract Units [Notice PIH 2019-23]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

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The WHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a WHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the WHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the WHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has floating units.

16.4.4 HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]

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

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

16.4.5 OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, they certify that at such execution and at all times during the term of the HAP contract:

- ☐ All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- ☐ The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- ☐ Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- ☐ To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- ☐ The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- ☐ The amount of the HAP the owner is receiving is correct under the HAP contract;
- ☐ The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- ☐ Except for HAP and tenant rent, the owner has not received and will not receive any other

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- payment or consideration for rental of the contract unit;
- ☐ The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
 - ☐ Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

16.4.6 VACANCY PAYMENTS [24 CFR 983.352(b)]

The WHA will not provide vacancy payments to the owner of a project based property.

16.5: SELECTION OF PBV PROGRAM PARTICIPANTS

16.5.1 OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

16.5.2 PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2019-23]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

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For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

16.5.3 ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the WHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

The WHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Section 4.

16.5.4 ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.

The WHA will not establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the WHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the WHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in

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accordance with the date and time of their application to the original waiting list.

The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

The WHA will give preference to participants moving under a VAWA emergency transfer from one PBV development to another.

16.5.5 SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the WHA's waiting list. The WHA may establish selection criteria or preferences for occupancy of particular PBV units.

Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs. Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

The WHA will use the same selection preferences that are used for the tenant-based voucher program for the PBV program or for particular PBV projects or units. The WHA may open a closed waiting list to certain preferences only, and in doing so, will make sure in the waitlist opening public announcement that only applicants meeting certain preference requirements are eligible to apply. The WHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another.

16.5.6 OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The WHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- ☐ Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- ☐ Denying any admission preference for which the applicant qualifies
- ☐ Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the WHA's selection policy
- ☐ Removing the applicant from the tenant-based voucher waiting list

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the WHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the WHA must provide a briefing packet that explains how the WHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the WHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available). In addition, the WHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The WHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

16.5.7 OWNER SELECTION OF TENANTS [24 CFR 983.253]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected

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applicant of the grounds for any rejection.

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the WHA from the WHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the WHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

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

The owner must notify the WHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The WHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

16.5.8 TENANT SCREENING [24 CFR 983.255]

WHA Responsibility

The WHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

The WHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The WHA must provide the owner with an applicant family's current and prior address (as shown in WHA records) and the name and address (if known by the WHA) of the family's current landlord and any prior landlords.

The WHA must provide applicant families a description of the WHA policy on providing information to owners, and the WHA must give the same types of information to all owners.

The WHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking, except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(c)].

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The WHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The WHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- ☐ Payment of rent and utility bills
- ☐ Caring for a unit and premises
- ☐ Respecting the rights of other residents to the peaceful enjoyment of their housing
- ☐ Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- ☐ Compliance with other essential conditions of tenancy.

16.6: OCCUPANCY

16.6.1 LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter into 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.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]

The lease for a PBV unit must specify all of the following information:

- ☐ The names of the owner and the tenant;
- ☐ The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- ☐ The term of the lease (initial term and any provision for renewal);
- ☐ The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- ☐ A specification of the services, maintenance, equipment, and utilities that will be provided by the owner;
- ☐ For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated,

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and it must address the transition to a new lease. The WHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- ☐ The program tenancy requirements
- ☐ The composition of the household as approved by the WHA (the names of family members and any WHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f); *RAD PBV*]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- ☐ The owner terminates the lease for good cause
- ☐ The tenant terminates the lease
- ☐ The owner and tenant agree to terminate the lease
- ☐ The WHA terminates the HAP contract
- ☐ The WHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the WHA a copy of all changes.

The owner must notify the WHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the WHA and in accordance with the terms of the lease relating to its amendment. The WHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities

between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease as well as the PHA’s administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

- ☐ A reasonable period of time, but not to exceed 30 days:
 - If the health or safety of other tenants, WHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - In the event of any drug-related or violent criminal activity or any felony conviction
- ☐ Not less than 14 days in the case of nonpayment of rent
- ☐ Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. WHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Security Deposits [24 CFR 983.259;]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise, the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant.

In compliance with state law, the owner may only collect the value of one month’s rent for security deposit.

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When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The WHA has no liability or responsibility for payment of any amount owed by the family to the owner.

16.6.2 PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2019-23]

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program. Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency--Service Coordinators (ROSS--SC) program grantees will be able to finish out their current ROSS--SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS--SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may

impact those entities.

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Any non-RAD PBV units located in the same project are also subject to these requirements.

16.6.3 RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

16.6.4 MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non- RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. If the WHA determines that a family is occupying a wrong-size unit, based on the WHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the WHA must promptly notify the family and the owner of this determination, and the WHA must offer the family the opportunity to receive continued housing assistance in another unit.

The WHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the WHA's determination. The WHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project

PBV assistance in another project

Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable

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time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

When the WHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the WHA will terminate the housing assistance payments at the expiration of this 30-day period.

The WHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the WHA.

Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]

Family's Right to Choice Mobility

Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

To ensure that residents are fully aware of and understand their rights under choice mobility, the WHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services.

Moving with Continued Assistance under Choice Mobility

If the family wishes to move with continued tenant-based assistance under choice mobility,

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the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the WHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

The WHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

The WHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher. Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time the WHA issues a choice mobility voucher, the WHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.

Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the WHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The WHA is not required to

provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the WHA must create and maintain a waiting list in the order requests

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from eligible households were received.

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the WHA exceeds 20 percent of the WHA's authorized units under its HCV ACC with HUD. Therefore, the WHA will establish a choice mobility cap. The WHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the WHA will follow the VAWA policy.

16.6.5 REEXAMINATIONS

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

16.6.6 EARNED INCOME DISALLOWANCE [Notice PIH 2019-23]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements. Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver. Effective January 1, 2024, this program will

end for new participants.

16.6.7 RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

- ☐ A reasonable period of time, but not to exceed 30 days:
 - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - In the event of any drug-related or violent criminal activity or any felony conviction.
- ☐ Not less than 14 days in the case of nonpayment of rent
- ☐ Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

16.6.8 INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

- ☐ For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing, as is the current standard in the program.
- ☐ For any additional hearings required under RAD, the WHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the WHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the WHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v).
The owner must provide an opportunity for an informal hearing before an eviction.

16.7: DETERMINING CONTRACT RENT

16.7.1 INITIAL CONTRACT RENTS [Notice PIH 2019-23]

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WHA Board of Commissioners Approval 10/19/2023

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RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located. PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

- ☐ An amount determined by the WHA, not to exceed 110 percent of the fair market rent (FMR) or the WHA's exception payment standard approved by HUD, minus any utility allowance
- ☐ The reasonable rent
- ☐ The rent requested by the owner

16.7.2 ADJUSTING CONTRACT RENTS [Notice PIH 2019-23;]

RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD's operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent (as determined by the PHA that administers the contract or the independent entity, as applicable), with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract. However, the rent to owner may fall below the initial contract rent in the following situations:

- ☐ To correct errors in calculations in accordance with HUD requirements
- ☐ If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- ☐ If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

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The contract rent adjustment will be the lesser of:

- ☐ The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- ☐ The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments at each contract anniversary date in accordance with the prevailing OCAF. The PHA who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments is not required. Properties are eligible to receive prior years' OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. The PHA administering the contract (or the independent entity) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps.

The owner will request a contract rent adjustment from the WHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify the WHA who administers the contract in writing of the results of its review of the rent adjustment request. The WHA who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the WHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

16.7.3 UTILITY ALLOWANCES [Notice PIH 2019-23]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect

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during the 30-day period immediately before the beginning date of the HAP contract. After conversion, the WHA must maintain the utility allowance schedule. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

Each family transitions to the new utility allowance at their first recertification following conversion.

The WHA will use the HCV utility allowance schedule for the RAD PBV developments.

16.7.4 REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project- based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

16.8: PAYMENTS TO OWNER

16.8.1 HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

16.8.2 TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]

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

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Initial Certifications [Notice PIH 2019-23]

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to

calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non- RAD PBV units located in the same project are subject to the same requirements.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

The WHA will make utility reimbursements directly to the family.

16.8.3 PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23];

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

The WHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The WHA will implement a three-year phase-in for in-place families whose TTP

increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the WHA will use the flat rent amount to calculate the

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phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

16.8.4 OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy. In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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EXHIBIT 16-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

Date: March 22, 2023

DEVELOPMENT INFORMATION

Development Name: Curtis Apartments

Address: 32 Great Brook Valley Ave, Worcester, MA 01605

Owner Information: TBD

Property Management Company: TBD

PHA-Owned: No

Mixed-Finance Development: Yes, LIHTC and State funds

HAP CONTRACT

Closing Date: TBD

List Which RAD Notice Applies to the Project: PIH 2019-23

Effective Date of Contract: TBD

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 15 years to 20 years

Expiration Date of Contract: TBD

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units	TBD						
Initial Contract Rent	\$ TBD	\$	\$	\$	\$	\$	

PBV UNITS

Unit Designation: Fixed

Accessible Units and Features: TBD

Target Population: Family

Excepted Units (Notice PIH 2012-32, REV-2 Developments Only): Faircloth units

Supportive Services: TBD

Elderly Units: No

Disabled Units No

**WAITING LIST AND
SELECTION**

Waiting List Type: Site-Based

Preferences: Same as HCV; see Chapter 3

Preference Verification: Same as HCV; see Chapter 3

For the PBV program, is the income limit the same as the HCV program?
TBD

OCCUPANCY

Subsidy Standards: TBD

Utilities: TBD

Vacancy Payments: None