

Worcester Housing Authority

Voucher Issuance, Briefing, and Housing Search Section 5

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

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reasonable efforts to provide an interpreter within a reasonable time at no cost. Such requests for an 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. 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

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- c. The family was unable to actively search for housing due to circumstances beyond their control. The WHA will only approve extensions under this 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

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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 will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit provided there is an assisted lease and contract in effect. Once voucher expires, the family will be notified by mail at the last address on file with the WHA that the voucher has expired, and the family is not 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.

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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 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

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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, 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.

5.6 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.

5.1.1 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;

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- 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;
- 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 Household	Maximum Number of Persons in Household*
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.

5.1.2 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.

5.1.3 Changes to Family Unit Size

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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.

5.1.4 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 a new voucher and the family 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.

5.1.5 WHA Error

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

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[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

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

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This section summarizes those requirements and provides supplementary WHA policies.

Part I describes the general verification process, Part II provides more detailed requirements related to family information, Part III provides information on income and assets, and Part IV covers mandatory deductions.

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

PART I: GENERAL VERIFICATION REQUIREMENTS

6-I.A. FAMILY CONSENT TO RELEASE INFORMATION [24 CFR 982.516; 982.551; CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the WHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not include a release for all of the information necessary for the program. The WHA has developed its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]

All adult applicants and participants must sign form HUD-9886A, Authorization for Release of Information. After January 1, 2024,, current program participants must sign and submit a Form HUD-9886A at their next interim or annual reexamination, which. will only be signed once. Another Form HUD-9886 will not need to be submitted to the WHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the WHA in administrative instructions.

The WHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

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WHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Authorization to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the WHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the WHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the WHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

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

WHA Policy

Revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with WHA policy.

In order for a family to revoke their consent, the family must provide written notice to the WHA.

Within 10 business days of the date the family provides written notice, the WHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the WHA will notify their local HUD office.

6-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS

[24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. WHA Policy

The WHA will not accept verification from other federal assistance programs. All income will be verified in accordance with the requirements of HUD's verification hierarchy and WHA policies in this chapter.

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6-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the Enterprise Income Verification (EIV) system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification and order of priority, the hierarchy that the WHA uses are:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's (EIV system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
 - Written third-party verification from the source, also known as "family-provided verification"
 - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The WHA must document in the file how the figures used in income and rent calculations were determined. Verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the WHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

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Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and interim reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual and interim reexamination. When required to use the EIV Income Report, in order for the report to be considered current, the WHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

WHA Policy

The WHA will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The WHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the WHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

WHA Policy

The WHA processes an interim reexamination for families who have increases in earned income when there was a previous decrease.

No Income Reported by SSA Report

WHA Policy

The WHA will generate the No Income Reported by SSA Report quarterly and will retain the report.

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The WHA will re-verify the status of participants identified in the report quarterly. Based on the information provided by the family and in EIV, the WHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the WHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

EIV Identity Verification Report

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth. PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

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

WHA Policy

The WHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The WHA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the WHA determines that discrepancies exist as a result of WHA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

WHA Policy

The WHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, the WHA must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The WHA must notify the owner in writing of the deceased head of household.

WHA Policy

The WHA will list the End of Participation (EOP) as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The WHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

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In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

WHA Policy

The WHA will inform all applicants and participants of its use of the following UIV resources: MA Department of Transitional Assistance, banks, MA Department of Revenue, unemployment, social security, or other types of income.

6-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV +Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

WHA Policy

The WHA will utilize EIV + Self-Certification. However, that may be instances when the WHA will require additional documentation.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to, pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The WHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the WHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

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When the family disputes EIV-reported employment income, the WHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

WHA Policy

In general, the WHA will use third-party verification from the source provided, at annual reexamination when EIV + self-certification is not used; for all new admissions; and for all interim reexaminations.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the WHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The WHA may reject documentation provided by the family if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the WHA determines that third-party documents provided by the family are not acceptable, the WHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the WHA will obtain one statement that reflects the current balance of the account or third party verification from the bank.

When pay stubs are used, the WHA will require the family to provide the two most current, consecutive pay stubs. At the WHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the WHA may request additional paystubs or a payroll record.

6-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM

[Notice PIH 2023 27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

WHA Policy

Typically, the WHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the WHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

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6.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone, or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

WHA Policy

In general, the WHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within the date specified, the WHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the WHA chooses to obtain oral third-party verification, the WHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

WHA Policy

If the family cannot provide original documents, at the discretion of the WHA, the WHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

6.I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has

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not been successful in obtaining information via all other required verification techniques.

When the PHA was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

WHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the WHA.

The WHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the WHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection.

WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

PART II: VERIFYING FAMILY INFORMATION

6-II.A. VERIFICATION OF LEGAL IDENTITY

WHA Policy

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

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Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the WHA has reason to doubt the identity of a person representing themselves to be a participant.

6-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

WHA Policy

The WHA will verify an individual's SSN in the situations described above, except WHA will not accept self-certification.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

WHA Policy

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The WHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the WHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

WHA Policy

The WHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the WHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

WHA Policy

The WHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

WHA Policy

The WHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

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WHA Policy

The WHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

WHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the WHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

6-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members.

WHA Policy

The WHA requires a government official record of birth.

Age must be verified only once during continuously assisted occupancy.

6-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

WHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Spouse or Significant Other

WHA Policy

Certification by the head of household is normally sufficient verification. **Separation or Divorce**

WHA Policy

Certification by the head of household is normally sufficient verification. If the WHA has reasonable doubts about a separation or divorce, the WHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

Absence of Adult Member

WHA Policy

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If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the WHA so requests. At the discretion of the WHA, an affidavit may be utilized.

Foster Children and Foster Adults

WHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

6-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

WHA Policy

The WHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead.

- The family reports child care expenses to enable a family member to further their education.

- The family includes a student enrolled in an *institution of higher education*.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

WHA Policy

In accordance with the verification hierarchy described in section 7-1.B, the WHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612, i.e. entitled to assistance, by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (HEA)

- The student is at least 24 years old.

- The student is a veteran.

- The student is married.

- The student has at least one dependent child.

- The student is a person with disabilities, and was receiving assistance prior to November 30, 2005.

If the WHA cannot verify at least one of these exemption criteria, the WHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the WHA will then proceed to verify either the student's parents' income eligibility or the student's independence from their parents (see below).

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Independent Student

WHA Policy

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

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student*.

Reviewing the 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*.

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the WHA determines that the student is a *vulnerable youth*.

6-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions WHA Policy

For family members claiming disability who receive disability benefits from the SSA, the WHA will attempt to obtain information about disability benefits through the EIV system. If documentation from HUD's EIV system is not available, the

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WHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the WHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the WHA.

Family Members Not Receiving SSA Disability Benefits

Worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

WHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability.

6-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

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

WHA Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

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PHA Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

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

6-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

PART III: VERIFYING INCOME AND ASSETS

6-III.A. EARNED INCOME

Income From Tip

WHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

WHA Policy

When the WHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs, if weekly or one bi-weekly, and within 120 days.

6-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

WHA Policy

Business owners and self-employed persons will be required to provide:

- Income tax returns with corresponding official tax forms and schedules attached

- If accelerated depreciation was used on the tax return or financial statement, the calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not file tax returns, the participant must complete an authorization form so that the WHA may obtain a copy of IRS Form 4506-T to verify that no return has been filed.

For those self employed with on-demand companies such as Uber, Lyft, or Door Dash, the WHA will provide a form for the individual to declare their income and expenses. The WHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the

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Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The WHA will provide a form for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify its accuracy at all future reexaminations. At any reexamination the WHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the WHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months if needed. If the family member has been self-employed for three (3) to twelve (12) months the WHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

6-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits [Notice PIH 2023-27]

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document, the PHA must obtain the benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from SS. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. The PHA must obtain the benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

6-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes all amounts received not the amount that a family may be legally entitled to receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court

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or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

WHA Policy

The methods the WHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to WHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support
Family's self-certification of amount received

6-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

WHA Policy

The WHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the WHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

6-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

When net family assets have a total value over \$50,000, the PHA will not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

WHA Policy

The WHA will obtain third-party verification of all assets regardless of the amount or an official document for the assets.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation. At admission and reexamination, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

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WHA Policy

Both at admission and reexamination, the WHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification must be signed by all family members 18 years of age and older. The WHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have present ownership in real property, the family is required to provide an official document of the real property. However, if the family is unable to provide the document, then, the WHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in situations where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the WHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

6-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value. The PHA needs to verify only those certifications that warrant documentation. **I**

WHA Policy

The WHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The WHA will verify the value of assets disposed of only if:

The WHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the WHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The WPHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the WHA will verify the value of this asset.

6-III.H. NET INCOME FROM RENTAL PROPERTY

WHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant.

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A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the WHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and will request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

6-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS

[Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

6-III.J. RETIREMENT ACCOUNTS

WHA Policy

The WHA will accept a document from the entity holding the account dated within the last 120 days that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

6-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

Fully excluded income is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any Federal Register notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

A detailed discussion of excluded income.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. For partially excluded income, the PHA is required to follow the verification hierarchy and applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

WHA Policy

The WHA will not follow the hierarchy verification of fully excluded income a. The WHA may request additional documentation if necessary to document the income source.

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The WHA will verify the source and amount of partially excluded income as described in Verification, Part 1 of this section.

6-III.L. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27]

A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)].

WHA Policy

The WHA will require that each family member who claims zero income status complete a no-income form. If any sources of income are identified on the form, the WHA will verify the income prior to including the income in the family's annual income.

The WHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

6-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institution of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

WHA Policy

The WHA will request written third-party verification of the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the WHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the WHA is unable to obtain third-party written verification of the requested information, the WHA will pursue other forms of verification following the verification hierarchy.

6-III.N. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

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If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a vulnerable youth in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

WHA Policy

If the WHA is required to determine the income eligibility of a student's parents, the WHA will request an income declaration and certification of income from the parents. The WHA will send the request directly to the parents, who will be required to certify their income under penalty of perjury. The required information must be submitted (postmarked) within 10 business days of the date of the WHA's request or within any extended timeframe approved by the WHA.

The WHA may request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, IRS tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

6-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

6-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579,

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88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs.

Amount of Expense

WHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, the WHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The WHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Third-party verification forms if the family is unable to provide acceptable documentation.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility section and as described in Section 7 (7-IV.A.) of this plan.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

WHA Policy

At the WHA discretion, the family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

WHA Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the WHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

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6-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the HIPAA and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs.

Amount of Expense

Attendant Care

WHA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

Auxiliary Apparatus

WHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source.

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

WHA Policy

The WHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities

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requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

WHA Policy

At the discretion of the WHA, the family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

6-IV.D. CHILD CARE EXPENSES

The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child 12 years or younger. The PHA will verify that the child being cared for (including foster children) is 12 years or younger (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

WHA Policy

At the discretion of the WHA, the family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

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Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

WHA Policy

Information to be Gathered

The WHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

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

Furthering Education

The WHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The WHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

WHA Policy

The WHA will verify that the type of child care selected by the family is allowable. The WHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The WHA will verify that the child care provider is not an assisted family member within the same household. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

WHA Policy

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- The WHA may request additional information as needed after a review. **EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS** All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<ul style="list-style-type: none">• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)• Form I-94 Arrival-Departure Record annotated with one of the following:<ul style="list-style-type: none">• “Admitted as a Refugee Pursuant to Section 207”• “Section 208” or “Asylum”• “Section 243(h)” or “Deportation stayed by Attorney General”• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”	<ul style="list-style-type: none">• Form I-94 Arrival-Departure Record with no annotation accompanied by:<ul style="list-style-type: none">• A final court decision granting asylum (but only if no appeal is taken);• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);• A court decision granting withholding of deportation; or• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none">• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.	Form I-688B Employment Authorization Card annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”.

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- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

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Section 7

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

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

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This section summarizes those requirements and provides supplementary WHA policies.

Part I describes the general verification process, Part II provides more detailed requirements related to family information, Part III provides information on income and assets, and Part IV covers mandatory deductions.

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

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE INFORMATION [24 CFR 982.516; 982.551; CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the WHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not include a release for all of the information necessary for the program. The WHA has developed its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]

All adult applicants and participants must sign form HUD-9886A, Authorization for Release of Information. After January 1, 2024, current program participants must sign and submit a Form HUD-9886A at their next interim or annual reexamination, which will only be signed once. Another Form HUD-9886 will not need to be submitted to the WHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the WHA in administrative instructions.

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The WHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

WHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Authorization to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the WHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the WHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the WHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

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

WHA Policy

Revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with WHA policy.

In order for a family to revoke their consent, the family must provide written notice to the WHA.

Within 10 business days of the date the family provides written notice, the WHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the WHA will notify their local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income

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determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs.

WHA Policy

The WHA will not accept verification from other federal assistance programs. All income will be verified in accordance with the requirements of HUD's verification hierarchy and WHA policies in this chapter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the Enterprise Income Verification (EIV) system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification and order of priority, the hierarchy that the WHA uses are:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
 - Written third-party verification from the source, also known as "family-provided verification"
 - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The WHA must document in the file how the figures used in income and rent calculations were determined. Verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the WHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

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Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and interim reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual and interim reexamination. When required to use the EIV Income Report, in order for the report to be considered current, the WHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

WHA Policy

The WHA will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The WHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the WHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

WHA Policy

The WHA processes an interim reexamination for families who have increases in earned income when there was a previous decrease.

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No Income Reported by SSA Report

WHA Policy

The WHA will generate the No Income Reported by SSA Report quarterly and will retain the report.

The WHA will re-verify the status of participants identified in the report quarterly. Based on the information provided by the family and in EIV, the WHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the WHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

EIV Identity Verification Report

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth. PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

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

WHA Policy

The WHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The WHA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the WHA determines that discrepancies exist as a result of WHA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

WHA Policy

The WHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, the WHA must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The WHA must notify the owner in writing of the deceased head of household.

WHA Policy

The WHA will list the End of Participation (EOP) as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

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When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The WHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

WHA Policy

The WHA will inform all applicants and participants of its use of the following UIV resources: MA Department of Transitional Assistance, banks, MA Department of Revenue, unemployment, social security, or other types of income.

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

WHA Policy

The WHA will utilize EIV + Self-Certification. However, that may be instances when the WHA will require additional documentation.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited, to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare

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benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The WHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the WHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the WHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

WHA Policy

In general, the WHA will use third-party verification from the source provided, at annual reexamination when EIV + self-certification is not used; for all new admissions; and for all interim reexaminations.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the WHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The WHA may reject documentation provided by the family if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the WHA determines that third-party documents provided by the family are not acceptable, the WHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the WHA will obtain one statement that reflects the current balance of the account or third party verification from the bank.

When pay stubs are used, the WHA will require the family to provide the two most current, consecutive pay stubs. At the WHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the WHA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the

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third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

WHA Policy

Typically, the WHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the WHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone, or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

WHA Policy

In general, the WHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within the date specified, the WHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the WHA chooses to obtain oral third-party verification, the WHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

WHA Policy

If the family cannot provide original documents, at the discretion of the WHA, the WHA will pay the service charge required to obtain third-party verification, unless

Worcester Housing Authority

Verification

it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

When the PHA was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

WHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the WHA.

The WHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the WHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

WHA Policy

Worcester Housing Authority

Verification

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the WHA has reason to doubt the identity of a person representing themselves to be a participant.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

Worcester Housing Authority

Verification

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

WHA Policy

The WHA will verify an individual's SSN in the situations described above, except WHA will not accept self-certification.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

WHA Policy

The WHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the WHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The WHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

WHA Policy

The WHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the WHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract.

A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

WHA Policy

The WHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Worcester Housing Authority

Verification

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

WHA Policy

The WHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

WHA Policy

The WHA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

WHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the WHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members.

WHA Policy

The WHA requires a government official record of birth.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Worcester Housing Authority

Verification

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

WHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Spouse or Significant Other

WHA Policy

Certification by the head of household is normally sufficient verification.

Separation or Divorce

WHA Policy

Certification by the head of household is normally sufficient verification. If the WHA has reasonable doubts about a separation or divorce, the WHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

Absence of Adult Member

WHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the WHA so requests. At the discretion of the WHA, an affidavit may be utilized.

Foster Children and Foster Adults

WHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

WHA Policy

Worcester Housing Authority

Verification

The WHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead.

- The family reports child care expenses to enable a family member to further their education.

- The family includes a student enrolled in an *institution of higher education*.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

WHA Policy

In accordance with the verification hierarchy described in section 7-1.B, the WHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612, i.e. entitled to assistance, by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (HEA)

- The student is at least 24 years old.

- The student is a veteran.

- The student is married.

- The student has at least one dependent child.

- The student is a person with disabilities and was receiving assistance prior to November 30, 2005.

If the WHA cannot verify at least one of these exemption criteria, the WHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the WHA will then proceed to verify either the student's parents' income eligibility or the student's independence from their parents (see below).

Independent Student

WHA Policy

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

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student*.

Worcester Housing Authority

Verification

Reviewing the 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*.

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the WHA determines that the student is a *vulnerable youth*.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions.

WHA Policy

For family members claiming disability who receive disability benefits from the SSA, the WHA will attempt to obtain information about disability benefits through the EIV system. If documentation from HUD's EIV system is not available, the WHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the WHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the WHA.

Family Members Not Receiving SSA Disability Benefits

Worcester Housing Authority

Verification

Worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

WHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

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

WHA Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

Worcester Housing Authority

Verification

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

PART III: VERIFYING INCOME AND ASSETS

7-III.A. EARNED INCOME

Income From Tip

WHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

WHA Policy

When the WHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs, if weekly or one bi-weekly, and within 120 days.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

WHA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached

If accelerated depreciation was used on the tax return or financial statement, the calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not file tax returns, the participant must complete an authorization form so that the WHA may obtain a copy of IRS Form 4506-T to verify that no return has been filed.

For those self-employed with on-demand companies such as Uber, Lyft, or Door Dash, the WHA will provide a form for the individual to declare their income and expenses. The WHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

Worcester Housing Authority

Verification

The WHA will provide a form for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify its accuracy at all future reexaminations. At any reexamination the WHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the WHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months if needed. If the family member has been self-employed for three (3) to twelve (12) months the WHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits [Notice PIH 2023-27]

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document, the PHA must obtain the benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from SS. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. The PHA must obtain the benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes all amounts received not the amount that a family may be legally entitled to receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

Worcester Housing Authority

Verification

WHA Policy

The methods the WHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to WHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

WHA Policy

The WHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the WHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

When net family assets have a total value over \$50,000, the PHA will not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

WHA Policy

The WHA will obtain third-party verification of all assets regardless of the amount or an official document for the assets.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation. At admission and reexamination, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

Worcester Housing Authority

Verification

WHA Policy

Both at admission and reexamination, the WHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification must be signed by all family members 18 years of age and older. The WHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have present ownership in real property, the family is required to provide an official document of the real property. However, if the family is unable to provide the document, then, the WHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in situations where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the WHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value. The PHA needs to verify only those certifications that warrant documentation.

WHA Policy

The WHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The WHA will verify the value of assets disposed of only if:

The WHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the WHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The WPHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the WHA will verify the value of this asset.

7-III.H. NET INCOME FROM RENTAL PROPERTY

WHA Policy

The family must provide:

Worcester Housing Authority

Verification

A current executed lease for the property that shows the rental amount or certification from the current tenant.

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the WHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and will request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

7-III.J. RETIREMENT ACCOUNTS

WHA Policy

The WHA will accept a document from the entity holding the account dated within the last 120 days that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

Fully excluded income is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any Federal Register notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

A detailed discussion of excluded income.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. For partially excluded income, the PHA is required to follow the verification hierarchy and applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

WHA Policy

Worcester Housing Authority

Verification

The WHA will not follow the hierarchy verification of fully excluded income a. The WHA may request additional documentation if necessary to document the income source.

The WHA will verify the source and amount of partially excluded income as described in Verification, Part 1 of this section.

7-III.L. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27]

A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)].

WHA Policy

The WHA will require that each family member who claims zero income status complete a no-income form. If any sources of income are identified on the form, the WHA will verify the income prior to including the income in the family's annual income.

The WHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institution of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

WHA Policy

The WHA will request written third-party verification of the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the WHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

Worcester Housing Authority

Verification

If the WHA is unable to obtain third-party written verification of the requested information, the WHA will pursue other forms of verification following the verification hierarchy.

7-III.N. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a vulnerable youth in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

WHA Policy

If the WHA is required to determine the income eligibility of a student's parents, the WHA will request an income declaration and certification of income from the parents. The WHA will send the request directly to the parents, who will be required to certify their income under penalty of perjury. The required information must be submitted (postmarked) within 10 business days of the date of the WHA's request or within any extended timeframe approved by the WHA.

The WHA may request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, IRS tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

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Verification

The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs.

Amount of Expense

WHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, the WHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The WHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Third-party verification forms if the family is unable to provide acceptable documentation.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility section and as described in Section 7 (7-IV.A.) of this plan.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

WHA Policy

At the WHA discretion, the family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Worcester Housing Authority

Verification

Expenses Incurred in Past Years

WHA Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the WHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the HIPAA and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs.

Amount of Expense

Attendant Care

WHA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

Auxiliary Apparatus

WHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source.

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Verification

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

WHA Policy

The WHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

WHA Policy

At the discretion of the WHA, the family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child 12 years or younger. The PHA will verify that the child being cared for (including foster children) is 12 years or younger (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

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Verification

WHA Policy

At the discretion of the WHA, the family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

WHA Policy

Information to be Gathered

The WHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

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

Furthering Education

The WHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The WHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

WHA Policy

The WHA will verify that the type of childcare selected by the family is allowable.

The WHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

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Verification

The WHA will verify that the childcare provider is not an assisted family member within the same household. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

WHA Policy

<ul style="list-style-type: none">The WHA may request additional information as needed after a review. <p>EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.</p> <ul style="list-style-type: none">Except for persons 62 or older, all noncitizens must sign a verification consent form.Additional documents are required based upon the person's status.	
<p>Elderly Noncitizens</p> <ul style="list-style-type: none">A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.	
<p>All other Noncitizens</p> <ul style="list-style-type: none">Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	
<ul style="list-style-type: none">Form I-551 Alien Registration Receipt Card (for permanent resident aliens)Form I-94 Arrival-Departure Record annotated with one of the following:<ul style="list-style-type: none">"Admitted as a Refugee Pursuant to Section 207""Section 208" or "Asylum""Section 243(h)" or "Deportation stayed by Attorney General""Paroled Pursuant to Section 221(d)(5) of the USCIS"	<ul style="list-style-type: none">Form I-94 Arrival-Departure Record with no annotation accompanied by:<ul style="list-style-type: none">A final court decision granting asylum (but only if no appeal is taken);A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);A court decision granting withholding of deportation; orA letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none">Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	<ul style="list-style-type: none">Form I-688B Employment Authorization Card annotated "Provision of Law 274a.12(11)" or "Provision of Law 274a.12".
<ul style="list-style-type: none">A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; orOther acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced	

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Verification

by notice published in the *Federal Register*

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HOUSING QUALITY STANDARDS (HQS/NSPIRE)/ NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE) AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS)/ National Standards for the Physical Inspection of Real Estate (NSPIRE) and permits the PHA to establish additional requirements. The use of the term "HQS/NSPIRE/NSPIRE" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS/NSPIRE inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS/NSPIRE. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS/NSPIRE.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS/NSPIRE requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

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/NSPIRE") and the Massachusetts State Sanitary Code (105 CMR 410.000) (together referred to as "inspection standards"). If there is an inconsistency between the HQS/NSPIRE and State Sanitary Code, the WHA

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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.

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

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HUD requires the PHA to enforce minimum HQS/NSPIRE but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS/NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31]

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS/NSPIRE as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS/NSPIRE. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The PHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

WHA Policy

The WHA follows the Massachusetts State Sanitary Code (105 CMR 410.000).

Clarifications of HUD Requirements

WHA Policy

As permitted by HUD, the WHA has adopted the following specific requirements that elaborate on HUD standards.

Walls

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In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition (applies only if screens are present).

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have functioning stoppers.

Toilets

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

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HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

WHA Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit

- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

- Natural or LP gas or fuel oil leaks

- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled

- Any electrical problem or condition that could result in shock or fire

- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed

- A light fixture is hanging by its wires

- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit

- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed

- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses

- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections

- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire

- Exposed bare wires or electrical connections

- Any condition that results in openings in electrical panels or electrical control device enclosures

- Water leaking or ponding near any electrical device

- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

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Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Any components that affect the function of the fire escape are missing or damaged

Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency

The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency

Absence of a functioning toilet in the unit

Inoperable or missing smoke detectors

Missing or inoperable carbon monoxide detector

Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)

Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting

The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases

A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside

A fuel-fired space heater is not properly vented or lacks available combustion air

A non-vented space heater is present

Safety devices on a fuel-fired space heater are missing or damaged

The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas

Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the HQS/NSPIRE in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 8-II.H.

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The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS/NSPIRE deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS/NSPIRE. **"Owner Responsibilities"**

The owner is responsible for all HQS/NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS/NSPIRE and the PHA will take action in accordance with Section 8-II.G.

8-I.F. REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

8-I.F OVERVIEW

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The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

WHA Policy

Upon notification by the owner, the WHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the WHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure.WHA Policy

The City of Worcester public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the WHA is not providing such a report.

WHA Policy

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.

8-I.F. VIOLATION OF HQS/NSPIRE SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

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A unit that does not meet these HQS/NSPIRE space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

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

- *Initial Inspections.* The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Annual/Biennial Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS/NSPIRE. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS/NSPIRE.

Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS/NSPIRE inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD

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and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family for unit inspections or reinspection's [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspection's in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

WHA Policy

The WHA will not charge a fee for failed reinspection's.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS/NSPIRE inspections from a remote location using video streaming technology and a proxy at the inspection site.

WHA Policy

The WHA will not conduct any HQS/NSPIRE inspection using RVI.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

WHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the WHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

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

WHA Policy

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When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the WHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

8-II.B. INITIAL HQS/NSPIRE INSPECTION [24 CFR 982.401(a)]

Initial Inspections

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS/NSPIRE inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

WHA Policy

The unit must pass the HQS/NSPIRE inspection on or before the effective date of the HAP contract.

The WHA will not rely on alternative inspections and will conduct an HQS/NSPIRE inspection for each unit prior to executing a HAP contract with the owner.

Timing of Initial Inspections

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

WHA Policy

The WHA will complete the initial inspection, determine whether the unit satisfies HQS/NSPIRE, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA). This 15-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.

Inspection Results and Reinspection's

WHA Policy

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

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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.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

WHA Policy

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.

Appliances [Form HUD-52580]

WHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the WHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS/NSPIRE requirements. The required appliances must be in place before the HAP contract is executed by the WHA. The WHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8-II.C. ANNUAL/BIENNIAL HQS/NSPIRE INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

WHA Policy

Each unit under HAP contract must be inspected annually within 12 months of the last full HQS/NSPIRE inspection.

The WHA will not rely on alternative inspection standards.

Scheduling the Inspection

WHA Policy

If an adult cannot be present on the scheduled date, the family should request that the WHA reschedule the inspection. The WHA and family will agree on a new inspection date that generally should take place within a reasonable time of the originally scheduled date. The WHA may schedule an inspection more than five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the WHA will automatically schedule a second inspection. If the family misses two scheduled inspections without WHA approval, the WHA will

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consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with WHA policies.

8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

WHA Policy

During a special inspection, the WHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS/NSPIRE deficiencies that are observed and will require the responsible party to make the necessary repairs.

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

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS/NSPIRE.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS/NSPIRE failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

WHA Policy

When life-threatening conditions are identified, the WHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the WHA's notice.

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When failures that are not life-threatening are identified, the WHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any WHA-approved extension), the owner's HAP will be abated in accordance with WHA policy (see 8-II.G.).

Extensions

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

WHA Policy

Extensions will be granted in cases where the WHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The WHA will request supporting documentation for the extension request. The length of the extension will be determined on a case by case basis, but will generally not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Reinspection

WHA Policy

The WHA will conduct a reinspection immediately following the end of the corrective period, or any WHA approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the WHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with

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WHA policies. If the WHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the WHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance.

The PHA will not accept self-certification of HQS/NSPIRE repairs.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS/NSPIRE, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS/NSPIRE deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS/NSPIRE failures that are the family's responsibility.

WHA Policy

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

The WHA will inspect abated units within a reasonable amount of time of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described.

WHA Policy

The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the WHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the WHA is 30 days.

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8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS/NSPIRE [24 CFR 982.404(b)]

Families are responsible for any HQS/NSPIRE violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

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

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS/NSPIRE inspection have been corrected.

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WHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the WHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the WHA will consider unit size and length of tenancy in the other units.

The WHA will determine whether the requested increase is reasonable within a reasonable amount of time of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective the first of the month following 60 days after the WHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

WHA Policy

In addition to the instances described above, the WHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the WHA determines that the initial rent reasonableness determination was in error or (2) the WHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

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8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Note: Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The RFTA requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D . PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

WHA Policy

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The WHA will primarily utilize www.AffordableHousing.com which will collect and maintain data on market rents in the WHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes.

The data will be updated on an ongoing basis and rent information that is more than 12 months old will be archived in www.AffordableHousing.com. Market Rent Data greater than 12 months old will not be used for eligibility but may be used for reference.

How Rents Are Determined

WHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The WHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the WHA may make adjustments to the range of prices to account for these differences. The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

The WHA uses a unit-to-unit comparison, by which the rent for a unit proposed for HCV assistance is directly compared to the rents for one or more unassisted units selected as comparables within the same market area. Geocoded maps will be used to identify the non-assisted units in closest proximity to the subject unit, and unit data information will be used to select the most similar units.

In comparing rents, the WHA will take into account critical market factors that impact rent, including the location, quality, size, unit type, and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Where comparable units differ from the unit proposed for HCV assistance, the WHA will determine whether those differences impact rent. Where they do, the WHA will adjust the rental value of the comparable units, up or down, based on the market value of these factors. The rent for the unit proposed for HCV assistance will be compared to the adjusted rents for the comparable units, enabling a fair, accurate, market-based determination of rent reasonableness.

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom). The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs). When a comparable project offers rent concessions (e.g., first

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month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

The WHA will notify the owner of the rent the WHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The WHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five business days of the WHA's request for information or the owner's request to submit information.

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 RFTA..

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.

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EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS/NSPIRE. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS/NSPIRE)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be able to be used in private, must be in proper operating condition, and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for two persons.

Thermal Environment

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The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within 30 days when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices

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- As part of ongoing maintenance ask each family to report deteriorated paint
- Maintain covered housing without deteriorated paint if there is child under six in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the PHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities within 30 days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

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EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

This exhibit provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS/NSPIRE standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

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- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting, will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

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Section 9 Leasing

This section 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 RFTA 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 RFTA 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.
- d. College or other school dormitories;

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- 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 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;
- 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:

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- 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.

9.1.3 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);

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- 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.

9.1.4 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 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

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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
 - 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

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- 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.

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

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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.

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.

9.4 RENT REASONABLENESS [24 CFR 982.507]

9.4.1 OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's

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rent is reasonable.

9.4.2 PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

9.4.3 When Rent Reasonableness Determinations Are Required

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS/NSPIRE inspection have been corrected.

WHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the WHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the WHA will consider unit size and length of tenancy in the other units.

The WHA will determine whether the requested increase is reasonable within a reasonable amount of time of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective the first of the month following 60 days after the WHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

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9.4.4 PHA and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

WHA Policy

In addition to the instances described above, the WHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the WHA determines that the initial rent reasonableness determination was in error or (2) the WHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

9.4.5 LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

9.5 HOW COMPARABILITY IS ESTABLISHED

9.5.1 Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made

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- Amenities, services, and utilities included in the rent

9.5.2 Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Note: Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

9.5.3 Rents Charged for Other Units on the Premises

The RFTA requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

9.6 PHA RENT REASONABLENESS METHODOLOGY

9.6.1 How Market Data Is Collected

WHA Policy

The WHA will primarily utilize www.AffordableHousing.com which will collect and maintain data on market rents in the WHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes.

The data will be updated on an ongoing basis and rent information that is more than 12 months old will be archived in www.AffordableHousing.com. Market Rent Data greater than 12 months old will not be used for eligibility but may be used for reference.

9.6.2 How Rents Are Determined

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WHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The WHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the WHA may adjust the range of prices to account for these differences. The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

The WHA uses a unit-to-unit comparison, by which the rent for a unit proposed for HCV assistance is directly compared to the rents for one or more unassisted units selected as comparable within the same market area. Geocoded maps will be used to identify the non-assisted units in closest proximity to the subject unit, and unit data information will be used to select the most similar units.

In comparing rents, the WHA will take into account critical market factors that impact rent, including the location, quality, size, unit type, and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Where comparable units differ from the unit proposed for HCV assistance, the WHA will determine whether those differences impact rent. Where they do, the WHA will adjust the rental value of the comparable units, up or down, based on the market value of these factors. The rent for the unit proposed for HCV assistance will be compared to the adjusted rents for the comparable units, enabling a fair, accurate, market-based determination of rent reasonableness.

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom). The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs). When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

The WHA will notify the owner of the rent the WHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The WHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five business days of the WHA's request for information or the owner's request to submit information.

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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 RFTA.

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.

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Section 11 Reexaminations

INTRODUCTION

The WHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This section discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and WHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The WHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the WHA must determine the income of the family for the previous 12-month period. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27].

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The WHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

WHA Policy

The WHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the WHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

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

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The WHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The WHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the WHA. However, WHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

WHA Policy

Notification of annual reexamination and packet will be sent by first-class mail, and if requested email or in person, will contain the date the packet must be returned to WHA. In addition, it will inform the family of the information and documentation needed.

If the family is unable to provide the packet by the due date, the WHA will send a second notification with a new due by date.

If a family fails to meet the second deadline date, a meeting notice will be sent out with a date and time for the family to meet the WHA.

The family may bring an advocate, interpreter, or other assistant to assist the family during the meeting or send an adult representative in their place.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the WHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

WHA Policy

Families will be asked to submit all required information (as described in the reexamination notice). The required information will include the WHA-designated reexamination form as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide by the final deadline date, as set forth by WHA, the family may request an extension, as a reasonable accommodation or VAWA.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

Additionally, HUD recommends that at annual reexaminations WHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

WHA Policy

At the annual reexamination, the WHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The WHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the WHA proposes to terminate assistance based on lifetime sex offender registration information, the WHA must notify the household of the proposed action and must provide the

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subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Section 12.)

The information provided by the family generally must be verified in accordance with the policies in Section 7. Unless the family reports a change, or the WHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Section 8), the WHA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the WHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents or is considered a *vulnerable youth* in accordance with WHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

WHA Policy

During the annual reexamination process, the WHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from their parents or is considered a *vulnerable youth* based on the policies, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

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If the student continues to be income eligible based on their own income and the income of their parents (if applicable), the WHA will process a reexamination in accordance with the policies in this section.

11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The WHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations.

Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with WHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The WHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Section 6 for WHA policies on when the COLA is applied and on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The WHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the WHA's annual reexamination paperwork.

Step 2: The WHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the WHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the WHA did not perform an interim or there have been changes since the last reexamination, the WHA moves to Step 3.

Step 3: If there were changes in annual income not processed by the WHA since the last reexamination, the WHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the WHA may use documentation of prior-year income to calculate the annual income. For example, the WHA may use the following documentation:

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- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the WHA, for example:
 - Year-end statements
 - Paycheck with year-to-date amounts
 - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the WHA notes discrepancies between EIV and what the family reports, the WHA must follow the verification hierarchy (described in Section 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the WHA calculates income from different sources at annual reexamination using the above method.

WHA Policy

The WHA will not utilize streamlined income determination or Safe Harbor.

11-I.F. EFFECTIVE DATES

The WHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

WHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the WHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the WHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the WHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the WHA.

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If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the WHA by the date specified, and this delay prevents the WHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and WHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the WHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The WHA must conduct any interim reexamination within a reasonable period of time after the family request or when the WHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the WHA generally should conduct the interim reexamination not longer than 30 days after the WHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the WHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

WHAs must require families to report household composition changes; however, WHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The WHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

WHA Policy

All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.

The WHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring WHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require WHA approval. However, the family is required to promptly notify the WHA of the addition [24 CFR 982.551(h)(2)].

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New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request WHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Section 8), the WHA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the WHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

WHA Policy

Families must request WHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 21 cumulative days (if the person sleeps in the unit during the day) or nights within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the WHA prior to the individual moving into the unit.

The WHA will not approve the addition of a new family or household member unless the individual meets the WHA's eligibility criteria and documentation requirements.

The WHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the WHA determines an individual meets the WHA's eligibility criteria and documentation requirements, the WHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the WHA determines that an individual does not meet the WHA's eligibility criteria or documentation requirements, the WHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The WHA will make its determination within a reasonable amount of time of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the WHA if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the WHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The WHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

WHA Policy

If a household member ceases to reside in the unit, the family must inform the WHA within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

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11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Overview

Interim reexaminations for changes in income or expenses may be scheduled either because the WHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The WHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Section 6.

Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the WHA may decline to conduct an interim reexamination if the WHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The WHA may set a lower threshold in WHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the WHA from setting a dollar-figure threshold.

However, while the WHA has some discretion, HUD requires that the WHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the WHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then WHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

WHA Policy

Generally, the WHA will only conduct an interim when the family's adjusted income has decreased by an amount that is 10 percent or more of the family's adjusted income.

When determining the 10 percent threshold, the WHA will round calculated percentages up or down to the next nearest unit as applicable (e.g., a calculated decrease of 9.5 percent will be rounded to 10 percent).

However, the WHA will perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

When there is a decrease in family size attributed to the death of a family member; or

When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

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WHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

WHAs must conduct an interim reexamination of family income when the WHA becomes aware that the family's adjusted income has changed by an amount that the WHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- WHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- WHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a WHA has the discretion whether to consider a subsequent increase in earned income.

WHA Policy

Provided a family's increase meets the 10 percent threshold, the WHA will conduct an interim when the family experiences an increase in earned income and the family previously had an interim performed for a decrease in adjusted income (whether for earned income, unearned income, or a combination of the two) since their last annual.

The WHA will not process an interim for increases in earned income when an interim was previously performed since the family's last annual and the interim resulted in an increase in the family's rent, nor will the WHA process an interim for an increase in earned income when the family has not had a previous interim reexamination since their last annual.

The WHA will also process an interim for any other increases in income that meet the 10 percent threshold.

The WHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the WHA policies.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the WHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The WHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the WHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the WHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the WHA would refer to WHA policy to determine whether an interim was required.

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Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the WHA must conduct an interim reexamination in accordance with WHA policy.

Family Reporting

The WHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

WHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the WHA may establish policies requiring that families report all changes in income and household composition, and the WHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the WHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

WHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the WHA of changes either orally or in writing. If the family provides oral notice, the WHA may also require the family to submit the changes in writing.

Within a reasonable period of time of the family reporting the change, the WHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the WHA will note the information in the tenant file but will not conduct an interim reexamination. The WHA will send the family written notification within 10 business days of making this determination informing the family that the WHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the WHA will determine the documentation the family will be required to submit based on the type of change reported and WHA policies. The WHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the WHA. This time frame may be extended for good cause with WHA approval. The WHA will accept required documentation by mail, email, fax, or in person. The WHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]

Changes Reported Timely [Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with WHA policies:

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- For rent increases, the WHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with WHA policies:

- For rent increases, the WHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the WHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the WHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. WHAs may choose to establish conditions or requirements for when such a retroactive application would apply. WHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the WHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

WHA Policy

When the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the WHA will apply the decrease the first of the month following completion of the interim reexamination.

The WHA will also clearly communicate the effect of the retroactive adjustment to the owner.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the WHA must recalculate the family share of the rent and the subsidy amount and notify the family and

owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Section 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

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In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the WHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Section 6 for information on how to select the appropriate payment standard.

When the WHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the WHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
 - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
 - If the payment standard amount has *decreased*, during the term of a HAP contract, the WHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the WHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Section 6 for the WHA's policy on decreases in the payment standard).
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the WHA's subsidy standards (see Section 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the WHA's utility allowance schedule [HCV GB, p. 12-5].

When there are changes in the utility arrangement with the owner, the WHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the WHA must use the WHA current utility allowance schedule [HCV GB, p. 18-8].

WHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

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11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The WHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

The amount and effective date of the new HAP payment

The amount and effective date of the new family share of the rent

The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the WHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)].

WHA Policy

The notice to the family will include the worksheet with the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the WHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the WHA may discover errors made by the WHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies.

PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under WHA policy and HUD regulations but which HUD still requires the WHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, WHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the WHAsed-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the WHAsed-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.

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- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

WHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

EXHIBIT 11-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the WHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:

Georgia:

Wages: \$30,000

SSI: \$10,980 (\$915 monthly)s

The EIV report pulled on 12/15/2023

Ruby:

Georgia:

Wages Total: \$33,651

SSI Total: \$10,980

Quarter 3 of 2023: \$8,859 (City Public School)

2023 benefit \$915 monthly

Quarter 2 of 2023: \$8,616 (City Public School)

Quarter 1 of 2023: \$8,823 (City Public School)

Quarter 4 of 2022: \$7,353 (City Public School)

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Income Reported on Reexamination Application

Ruby:

Wages at City Public School: \$32,000
(switched jobs but no permanent change to amount)

Georgia:

SSI benefits: \$10,980 (no changes)

Calculating Ruby's wages:

Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the WHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.

Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The WHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)

If Ruby did not agree with the annual wages reported in EIV, the WHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Other Wage: \$33,651

Myers Family Total Annual Income: \$45,399

Georgia (Other Youth Under 18):

SSI: \$11,748

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Example 2: Calculating Annual Income at Annual Reexamination Using EIV:

Family Disagrees with EIV

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

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Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the WHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

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Section 11 Reexaminations

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the WHA did not establish a lower threshold. Samantha did not report any additional changes to the WHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:

Business income: \$28,000

VA disability pension: \$12,000

Child support: \$2,400

Fergus:

Wages: \$8,250

Other non-wage income: \$3,000 (Go Fund Me online fundraiser)

The EIV report pulled on 9/16/2024

Samantha:

Wages Total: \$0 (no wage data reported since Q1 2023)

Fergus:

Wages Total: \$8,600

Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)

Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

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Section 11 Reexaminations

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on WHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the WHA for the 11/1/2024 annual reexamination.

Samantha:

Fergus:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

Wages: \$6,000

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The WHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The WHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations

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processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the WHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the WHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The WHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the WHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The WHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The WHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD- 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058. The WHA must verify and adjust to reflect current non-wage income. The WHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

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Section 11 Reexaminations

Summary of Annual Income (as reported on the HUD-50058)	
Samantha (Head of Household): Own business: \$18,000 Pension: \$12,300 Child support: \$1,200	Fergus (Co-head): Wages: \$9,360
Poole Family Total Annual Income: \$40,860	

Chapter 16

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

INTRODUCTION

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

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

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

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

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

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

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

Part VII: 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.

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

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PART I: GENERAL REQUIREMENTS

16-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 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 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. To distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

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16-I.B. APPLICABLE REGULATIONS

Overall, 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, 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 PIH 2023-19 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. For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.
 - Notice PIH 2023-19 as amended by Notice PIH 2019-23, and Notice PIH 2021-07.
 - Notice PIH 2019-23 was immediately applicable at the time of publication to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.

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- 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.

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- 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.
- 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.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.

NOTE: The policies in this chapter follow Notice PIH 2019-23 as amended by PIH 2023-19.

- RAD FAQs (<http://www.radresource.net/search.cfm>)

WHA Policy

<u>Project</u>	<u>Closing Date</u>	<u>RAD Notice</u>
<u>Curtis Apartments – Phase I</u>	<u>May 2, 2024</u>	<u>PIH 2019-23 and PIH 2023-19</u>
<u>Curtis Apartments – Phase II</u>	<u>TBD</u>	

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.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

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16-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Many 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 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.

WHA Policy

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-I.D. 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 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. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. 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.

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- 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.

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- 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 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.

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- 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 PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA 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 PHA

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16-I.E. 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 be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.

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PART II: PBV PROJECT SELECTION

16-II.A. 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-II.B. 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

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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.

16-II.C. 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.

WHA Policy

If units converted to PBV under RAD are WHA-owned housing, the WHA will use a HUD-approved independent entity for rent setting and inspection functions

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**16-II.D. 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 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 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.

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16-II.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23 and Notice PIH 2023-19]

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. The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. 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.

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16-II.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 201617]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, except for 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-II.G. 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.

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PART III: DWELLING UNITS

16-III.A. 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-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

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-III.C. 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)

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16-III.D. INSPECTING UNITS

Initial Inspection [RAD Quick Reference Guide, Notice PIH 2019-23, and Notice PIH 2023-19]

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). 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). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, HQS requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with HQS requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the 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 PHA must inspect the unit. The PHA 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.

WHA Policy

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

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

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

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In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

WHA Policy

The WHA will not rely on alternative inspection standards.

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Other Inspections [24 CFR 983.103(e)]

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

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

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

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

In the case of PHA-owned units, all required 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 agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

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PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

16-IV.A. 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 housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA 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-IV.B. 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). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

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*]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the

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conditions of the CHAP and the RCC are met and the conversion has closed, the PHA 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 PHA 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.

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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]

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

WHA Policy

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.

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16-IV.C. 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 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.

WHA Policy

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.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

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 PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA 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-IV.D. 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.

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16-IV.E. 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 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-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

WHA Policy

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

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PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

16-V.A. OVERVIEW

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

16-V.B. 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.

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.

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16-V.C. ELIGIBILITY FOR PBV ASSISTANCE NEW ADMISSIONS [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)], and meet asset limitation requirements. 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.

WHA Policy

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

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**16-V.D. 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.

WHA Policy

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.

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 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.

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16-V.E. 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 PHA's waiting list. The PHA 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.

WHA Policy

The WHA will use the same selection preferences that are used for the tenant-based voucher 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.

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16-V.F. 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:

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

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

16-V.G. 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 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 PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

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

WHA Policy

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.

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16-V.H. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

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

WHA Policy

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, stalking, or human trafficking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(c)].

WHA Policy

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

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- 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

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PART VI: OCCUPANCY

16-VI.A. OVERVIEW

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

16-VI.B. 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;

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- The amount of any charges for food, furniture, or supportive services; and
- 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, and it must address the transition to a new lease. The PHA 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 PHA (the names of family members and any PHA-approved live-in aide)

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

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Initial Term and Lease Renewal [24 CFR 983.256(f); *RAD PBV Quick Reference Guide* 6/20]

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 PHA terminates the HAP contract
- The PHA terminates assistance for the family

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

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

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

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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 (which MTW agencies may not alter) 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, PHA 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)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA 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.

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Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23; Notice PIH 2023-19; RAD PBV Quick Reference Guide 6/20]

Pre-Conversion Residents

The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:

- The family's TTP minus the utility allowance (subject to any required phase-in); or
- The Zero HAP Rent Cap, which is the lower of:
 - 110 percent for the applicable FMR minus the utility allowance; or
 - In the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

After a family has paid the Zero HAP Rent Cap for a period of 180 days, the PHA must remove the unit from the HAP Contract and the family's participation in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP

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contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request.

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New Admission Families

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit after the family has vacated the property and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207 or where floating units have been permitted.

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver from HUD for the covered project. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

PHA Policy

The PHA will not request waivers from HUD to apply the alternative requirements applicable to pre-conversion residents to new admission families.

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would

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result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

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Security Deposits [24 CFR 983.259; *RAD PBV Quick Reference Guide 6/20*]

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. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

WHA Policy

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

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

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

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

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16-VI.C. 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.

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

16-VI.D. 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.

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16-VI.E. 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 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.

WHA Policy

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.

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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.

WHA Policy

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 PHA.

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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.

WHA Policy

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, 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.

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WHA Policy

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 PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA 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 PHA must create and maintain a waiting list in the order requests from eligible households were received.

WHA Policy

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

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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.

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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-VI.F. REEXAMINATIONS [RAD PBV Quick Reference Guide 6/20]

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-VI.G. 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.

16-VI.H. 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

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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

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16-VI.I. 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) (See 16-III.C. Informal Hearings for Participants), 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 in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (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 PHA (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). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

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PART VII: DETERMINING CONTRACT RENT

16-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]

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. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. 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 contact rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance
- The reasonable rent
 - The RAD Rent

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16-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2019-23; *RAD PBV Quick Reference Guide 6/20*; PHA Asset Repositioning “How to Apply OCAF for RAD PBV” Webinar]

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

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

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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.

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WHA Policy

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-VII.C. UTILITY ALLOWANCES [Notice PIH 2019-23; *RAD PBV Quick Reference Guide 6/20*]

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 during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, the PHA that administers the contract must maintain the utility allowance schedule. The PHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517, respectively, or the PHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. 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.

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WHA Policy

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

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16-VII.D. 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.

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PART VIII: PAYMENTS TO OWNER

16-VIII.A. 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.

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16-VIII.B. 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.

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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.

WHA Policy

The WHA will make utility reimbursements directly to the family.

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16-VIII.C. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23; PHA Asset Repositioning “Phase-in of Tenant Rents” Webinar]

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.

WHA Policy

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 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.

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

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16.VIII.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

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

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

Other Charges by Owner

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

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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**PBV UNITS**

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

Unit Designation: Fixed**Accessible Units and Features:** TBD

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Target Population: Family

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

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