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- Former residents of the original project must be provided with a selection preference that provides the residents with the right of first occupancy at the PBV newly constructed project when it is ready for occupancy; or
- Prior to the demolition of the original project, the PBV newly constructed project must have been identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

#### **17-I.F. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

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

#### **17-I.G. RELOCATION REQUIREMENTS [24 CFR 983.7]**

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

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

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of OCHA to ensure the owner complies with these requirements.

#### **17-I.H. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

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

## PART II: PBV OWNER PROPOSALS

### 17-II.A. OVERVIEW

OCHA will describe the procedures for owner submission of PBV proposals and for selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, OCHA will determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.52 and 983.53], complies with the cap on the number of PBV units per project [24 CFR 983.54], and meets the site selection standards [24 CFR 983.55].

### 17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

OCHA will select proposals that are solicited by a Notice of Funding Availability (NOFA) or were previously selected based on a NOFA competition by the OC Community Resources (OCCR) Housing Development Division (HCD) or successor unit. This may also include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

#### **Solicitation and Selection of PBV Proposals [24 CFR 983.51(d)]**

##### OCHA Request for Proposals for Rehabilitated and Newly Constructed Units

OCHA and/or HCD will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in newspapers of general circulation (to be identified at the time of publication).

In addition, OCHA/HCD will post the RFP and proposal submission and rating and ranking procedures on its website until such time as the application period is closed.

OCHA/HCD will publish its advertisement for at least one day per week for three consecutive weeks. The advertisement will specify the number of units OCHA estimates that it will be able to assist under the available funding.

Proposals will be due in OCHA offices as specified in the publication notice. In order for the proposal to be considered, the owner must submit the proposal to OCHA or HCD as directed by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

OCHA and/or HCD will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers OCHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided onsite or in the immediate area for occupants of the property; and
- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons

with disabilities or families needing other services, OCHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

#### **OCHA Requests for Proposals for Existing Housing Units**

Proposals (RFP) for existing housing will be advertised in newspapers of general circulation (to be identified at the time of publication).

In addition, OCHA and/or HCD will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

OCHA/HCD will publish its advertisement for at least one day per week for three consecutive weeks. The advertisement will specify the number of units to be assisted under the funding OCHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers OCHA's goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided onsite or in the immediate area for occupants of the property; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

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

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

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

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

- Extent to which the project furthers OCHA goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

#### HUD Offer of Tenant Protection or Enhanced Vouchers to OCHA for Project-Based Use

OCHA will comply with HUD PIH notices including Notice PIH 2011-54 and Notice PIH 2013-27 if offered Tenant Protection or Enhanced Vouchers for project-based use.

17-II.C. PROJECT OR PROPOSAL SELECTION[24 CFR 983.51(f) and 24 CFR 983.153(c)(3)]

**Inspections Required Prior to Project or Proposal Selection [24 CFR 983.51(e)]**

OCHA must examine the proposed site before the proposal or project selection date to determine whether the site complies with the site selection standards outlined in 24 CFR 983.55.

OCHA may execute a HAP contract for existing housing if:

- All proposed contract units in the project fully or substantially comply with housing quality standards on the proposal or project selection date, which OCHA must determine via inspection;
- The project meets the environmental review requirements at 24 CFR 983.56, if applicable; and
- The project meets the initial inspection requirements in accordance with 24 CFR 983.103(c).

**OCHA Written Notice of Proposal or Project Selection [24 CFR 983.51(f) and (h) and 24 CFR 983.153(c)(3)]**

Within 15 business days of OCHA and/or HCD making the selection, OCHA/HCD will notify the selected owner in writing of the owner's selection for the PBV program. OCHA/HCD will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

When an environmental review is required, if the review has not been conducted prior to the proposal selection date, OCHA's written notice of proposal selection will state that the selection is subject to completion of a favorable environmental review and that the proposal may be rejected based on the results of the environmental review.

For any project to which labor standards apply, OCHA's written notice will state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

OCHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers OCHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. OCHA will also post the notice of owner selection on its website.

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

OCHA/HCD will make these documents available for review at its offices during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

The owner must submit a written response to OCHA accepting the terms and requirements stated in the notice within 15 business days of OCHA's written notification to the owner.

**17-II.D. HOUSING TYPE [24 CFR 983.52]**

OCHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of OCHA selection, the units substantially comply with housing quality standards. Units for which new construction or rehabilitation was started after the date of proposal submission but prior to the effective date of the AHAP do not qualify as existing housing.

#### **17-ILE. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

##### **Ineligible Housing Types [24 CFR 983.52]**

OCHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. Manufactured homes are ineligible only if the manufactured home is not permanently affixed to a permanent foundation or the owner does not own fee title to the real property (land) on which the manufactured home is located.

In addition, OCHA may not attach or pay PBV assistance for a unit occupied by an owner and OCHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

##### **Subsidized Housing [24 CFR 983.53]**

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

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, [42 U.S.C. 1490a](#) (a Rural Housing Service Program). However, OCHA may attach assistance for a unit subsidized with Section 515 interest reduction payments ([42 U.S.C. 1485](#));
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or

OCHA in accordance with HUD requirements. For this purpose, *housing subsidy* does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

**17-II.F. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.11, 24 CFR 983.153(b), 24 CFR 4.13, Notice PIH 2013-11, and FR Notice 3/13/23]**

OCHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

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

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

When OCHA selects a new construction or rehabilitation project, OCHA/HCD will require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 3/13/23 contains a list of all required documentation.

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

If HUD completes the SLR and determines the PBV assistance complies with all requirements, HUD will notify OCHA/HCD in writing. If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify OCHA/HCD. OCHA/HCD may proceed to execute an AHAP at that time if the environmental approval is received.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements [24 CFR 983.11(d)].

For newly constructed or rehabilitated housing under a HAP contract, the owner must disclose to OCHA information regarding any additional related assistance from the federal government, a state, or a unit of general local government, or any agency or instrumentality thereof. Related assistance includes but is not limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance. If the additional related assistance meets certain threshold and other requirements established by HUD, a subsidy layering review may be required to determine if it would result in excess public assistance to the project. OCHA must adjust the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

**17-II.G. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT****25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 1/18/17, and Notice PIH 2017-21]**

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

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

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

- If the units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
  - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17]

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless OCHA/HCD and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

**Supportive Services**

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

**Promoting Partially Assisted Buildings**

OCHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building.

**17-II.H. SITE SELECTION STANDARDS****Compliance with PBV Goals, Civil Rights Requirements, and Site and Neighborhood Standards [24 CFR 983.55(b)]**

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

In addition, prior to selecting a proposal, OCHA will determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the housing quality standards site and neighborhood standards at 24 CFR 5.703.

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

#### **Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.55(d)]**

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

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

#### **New Construction Site and Neighborhood Standards [24 CFR 983.55(e)]**

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

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless OCHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;
- The site must promote a greater choice of housing opportunities and avoid undue

concentration of assisted persons in areas containing a high proportion of low-income persons;

- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **17-II.I. ENVIRONMENTAL REVIEW [24 CFR 983.56]**

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

For projects or proposals that were selected in accordance with the site selection standards at [24 CFR 983.55](#) in effect on or after June 6, 2024, no environmental review is required to be undertaken before entering into a HAP contract for existing housing, except to the extent a Federal environmental review is required by law or regulation relating to funding other than PBV.

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

OCHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and OCHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until one of the following occurs:

The responsible entity has determined that the activities to be undertaken are exempt under 24 CFR 85.34(a) or categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b);

The responsible entity has completed the environmental review procedures required by 24 CFR Part 58, and HUD has approved OCHA's Request for Release of Funds and Certification (form HUD-7015.15)

HUD approves the Request for Release of Funds and Certification by issuing a Letter to Proceed or form HUD-7015.16, thereby authorizing OCHA to execute an AHAP or HAP contract, as applicable; or

HUD has performed an environmental review under 24 CFR Part 50 and has notified OCHA in writing of environmental clearance

OCHA will supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. OCHA will require the owner to carry

out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

## **PART III: DWELLING UNITS**

### **17-III.A. OVERVIEW**

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

### **17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards for the tenant-based program, including those for special housing types, generally apply to the PBV program.

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

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

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.

### **17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [24 CFR 983.102]**

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. OCHA will ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

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

### **17-III.D. INSPECTING UNITS**

#### **Pre-selection Inspection [24 CFR 983.103]**

OCHA HCD, and/or another qualified person or entity will examine the proposed site before the proposal selection date. If the units to be assisted already exist, OCHA will inspect all the units before the proposal selection date and must determine whether the units substantially comply with housing quality standards. To qualify as existing housing, units must substantially comply with housing quality standards on the proposal selection date. However, OCHA will not execute the HAP contract until the units fully comply with housing quality standards.

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

If the units to be assisted already exist, the OCHA must inspect all the units before the proposal selection date and must determine if the project meets the definition of *existing housing*. If the

project is existing housing, OCHA may not execute the HAP contract until the units meet the initial inspection requirements in accordance with 24 CFR 983.103(c).

**Pre-HAP Contract Inspections [24 CFR 983.103(b), 24 CFR 983.155, 24 CFR 983.103(c)]**

OCHA must inspect each contract unit before execution of the HAP contract. OCHA will not provide assistance on behalf of the family until the unit fully complies with housing quality standards.

**Turnover Inspections [24 CFR 983.103(d)]**

Before providing assistance to a new family in a contract unit, OCHA or another qualified person or entity will inspect the unit. OCHA will not provide assistance on behalf of the family until the unit fully complies with housing quality standards.

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

At least once every 24 months during the term of the HAP contract, OCHA or another qualified person or entity will inspect a random sample, consisting of at least 20 percent of the contract units in each building, or may inspect 100% to determine if the contract units and the premises are maintained in accordance with housing quality standards.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, OCHA or another qualified person or entity will reinspect 100 percent of the contract units in the building.

**Other Inspections [24 CFR 983.103(f)]**

OCHA or another qualified person or entity will inspect contract units whenever needed to determine that the contract units comply with housing quality standards and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. OCHA will take into account complaints and any other information coming to its attention in scheduling inspections.

OCHA or another qualified person or entity will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected a housing quality standard violation and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of housing quality standards.

In conducting PHA supervisory quality control housing quality standard inspections, OCHA will include a representative sample of both tenant-based and project-based units.

## PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

### 17-IV.A. OVERVIEW [24 CFR 983.151 and 983.152]

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

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

### 17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT (AHAP) [24 CFR 983.154]

In order to offer PBV assistance in rehabilitated or newly constructed units, OCHA will enter into an agreement to enter into HAP contract (Agreement) with the owner of the property.

The Agreement will be in the form required by HUD [24 CFR 983.154(e)]. OCHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.154(d)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with housing quality standards, and OCHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, OCHA will enter into a HAP contract with the owner for the contract units.

#### Content of the Agreement [24 CFR 983.154(e)]

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

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements will be included in the description of work to be performed under the Agreement;
- A description of any required work item if the requirement to install broadband infrastructure applies;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description will include the rehabilitation work write up and, where determined necessary by OCHA and/or HCD, specifications and plans. For new construction units, the description will include the working drawings and specifications; and
- Any additional requirements for quality, architecture, or design over and above housing quality standards.

**Execution of the Agreement [FR Notice 11/24/08]**

The Agreement will be executed promptly after notice of proposal selection to the selected owner. OCHA will not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, OCHA will not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, OCHA will not enter into the Agreement until the environmental review is completed and OCHA has received environmental approval.

However, OCHA does not need to conduct a subsidy layering review in the case of a HAP contract for an existing structure or if the applicable state or local agency has conducted such a review.

Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

OCHA will enter into the Agreement with the owner within 30 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

**17-IV.C. LIMITED PHA DISCRETION TO EXECUTE AHAP AFTER COMMENCEMENT OF DEVELOPMENT ACTIVITY [24 CFR 983.154(f)]**

Consistent with HUD's PBV regulations, OCHA may, in limited and exceptional circumstances, execute an Agreement to Enter into a HAP Contract (AHAP) after construction or rehabilitation has commenced, provided all requirements of 24 CFR part 983 are met. This is a discretionary flexibility intended to advance deconcentration of poverty and access to opportunities for families, and it does not create any entitlement for owners or developers.

OCHA will only use this flexibility when the owner can document compliance with all applicable development requirements in 24 CFR 983.153 from the date of proposal submission. Prior to executing any AHAP, OCHA must confirm such compliance and must meet the notice requirement at 24 CFR 983.153(c)(3) for projects subject to labor standards.

Regardless of timing of construction commencement, no assistance will be attached to a project and no AHAP will be executed until any required subsidy layering review (SLR) is completed in accordance with HUD requirements and environmental review requirements are satisfied

**OCHA Threshold Criteria**

OCHA will consider executing an AHAP after commencement of development only if all of the following are met:

1. Master Planned Community Context: The project is within a master planned community, and the developer does not have full control over the entire property.
2. Scarcity of Nearby Development: There is no other project with OCHA PBV assistance attached within a three-mile radius of the project.
3. Deconcentration and Opportunity: The project advances deconcentration of poverty and access to opportunity consistent with PBV site selection standards. The project site is amenity-rich, with access to public transportation, employment centers, shopping, healthcare, education, parks, and municipal services.
4. Lower-Poverty Area: The project is located in a census tract with a poverty rate lower than OCHA's principal operating area benchmark.
5. Population Need: The project demonstrably serves a population of need in that specific community.

**Mandatory Compliance Items**

Labor Standards (Davis-Bacon), Equal Opportunity and Accessibility, Broadband Infrastructure, and Owner Disclosures must be met as per HUD regulations.

**Documentation and Timing**

The owner's request for AHAP-after-commencement consideration must document compliance with Section 983.153 from the relevant date and provide a sitting and amenities narrative and data demonstrating the thresholds mentioned above. OCHA will confirm compliance prior to executing any AHAP and will not execute if required SLR and environmental review are incomplete.

**Sole Discretion; No Right or Expectation**

OCHA retains the sole right to approve or deny any request to use this flexibility for any reason, including developer track record, financial viability, budget availability, market feasibility, zoning uncertainty, environmental or civil rights risks, compliance history, lack of supportive services, risk of undue concentration, misalignment with Affirmatively Furthering Fair Housing goals, and any other reason deemed in the best interest of program integrity and families served.

**Consistency with OCHA Plan and HUD Regulations**

This subsection operates within the scope of OCHA's Administrative Plan and HUD's PBV regulations. Nothing herein waives any statutory or regulatory requirement, and where there is any conflict, HUD regulations control.

**17-IV.D. CONDUCT OF DEVELOPMENT WORK**

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**Labor Standards [24 CFR 983.153(c)]**

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

Further, these Davis-Bacon requirements apply to existing PBV units when the nature of any work to be performed either before the execution of the HAP contract or within 18-months after execution constitutes project development. Any development initiated on existing units within 18-months after the effective date of the HAP contract on projects with nine or more contract units triggers Davis-Bacon requirements.

The AHAP will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. The addendum to the HAP contract, Form HUD-5679, also includes the required labor standards clauses.

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

For any project to which labor standards apply, OCHA/HCD's written notice to the party that submitted the selected proposal or board resolution approving project-basing assistance at the specific project must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

Development activity is also subject to the federal equal employment opportunity requirements of

Executive Orders 11246 as amended (3 CFR, 1964-1965 Comp., p. 339), 11625 (3 CFR, 1971-1975 Comp., p. 616), 12432 (3 CFR, 1983 Comp., p. 198), and 12138 (3 CFR, 1977 Comp., p. 393).

**Accessibility [24 CFR 983.153(e)]**

As applicable, the design and construction requirement of the Fair Housing Act and implementing regulations at 24 CFR 100.205; the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, including 8.22 and 8.23; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131-12134) and implementing regulations at 28 CFR Part 35, including 24 CFR 35.150 and 35.151, apply to development activity.

A description of any required work item resulting from these requirements must be included in the AHAP (if applicable) or HAP contract (if applicable).

**Broadband Infrastructure [24 CFR 983.153(f)]**

Any development activity that constitutes substantial rehabilitation (as defined by 24 CFR 5.100) of a building with more than four rental units and where the proposal or project selection date or the start of the development activity while under a HAP contract is after January 19, 2017, must include installation of broadband infrastructure, as defined in 24 CFR 5.100, except where the owner determines and documents the determination that:

- The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

**A description of any required work item resulting from this requirement must be included in the AHAP (if applicable) or HAP contract (if applicable). Owner Disclosure [24 CFR 983.153(g)]**

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

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

**17-IV.E. COMPLETION OF HOUSING [24 CFR 983.155]**

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

**Evidence of Completion [24 CFR 983.155]**

At a minimum, the owner will submit the following evidence of completion in the form and manner required by OCHA/HCD:

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

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requirements in development of the housing.

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

**OCHA Acceptance of Completed Units [24 CFR 983.156(a) and (b)]**

Upon notice from the owner that the housing is completed, OCHA or another qualified person or entity will inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with housing quality standards and any additional requirements imposed under the Agreement. OCHA will also determine if the owner has submitted all required evidence of completion.

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

If OCHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, OCHA will submit the HAP contract for execution by the owner and will then execute the HAP contract.

## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

### **17-V.A. OVERVIEW [24 CFR 983.202(a)]**

OCHA will enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract will be in the form required by HUD [24 CFR 983.202(a)].

### **17-V.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203]**

The HAP contract will specify the following information:

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

#### **Execution of the HAP Contract [24 CFR 983.204]**

OCHA will not enter into a HAP contract until each contract unit has been inspected and OCHA has determined that the unit complies with the housing quality standards. For existing housing, the HAP contract will be executed promptly after OCHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract will be executed after OCHA or another qualified person or entity has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

For existing housing, the HAP contract will be executed within 30 business days of OCHA determining that all units pass housing quality standards.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 30 business days of OCHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet housing quality standards, and the owner has submitted all required evidence of completion.

**Effective Date of the HAP Contract [24 CFR 983.204(d)]**

The effective date of the HAP contract must be on or after the date the HAP contract is executed. The HAP contract must be effective before the effective date of the first lease covering a contract unit occupied by an assisted family, and OCHA may not pay any housing assistance payment to the owner until the HAP contract is effective.

**Term of HAP Contract [24 CFR 982.205, FR Notice 1/18/17, and Notice PIH 2017-21]**

OCHA will enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years. The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At any time before expiration of the HAP contract, OCHA may extend the term of the contract for an additional term of up to 20 years if OCHA determines an extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions will be on the form and subject to the conditions prescribed by HUD at the time of the extension.

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

The cost of extending the contract and the amount of available budget authority;

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

**Termination by OCHA [24 CFR 983.205(e)]**

The HAP contract will provide that the term of OCHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by OCHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, OCHA may terminate the HAP contract by notice to the owner. The termination will be implemented in accordance with HUD instructions.

If OCHA determines that the owner has breached the HAP contract, OCHA may exercise any of its rights or remedies under the HAP contract, including but not limited to contract termination. The provisions of 24 CFR 983.208 apply for HAP contract breaches involving failure to comply with housing quality standards. For any other contract termination due to breach, 24 CFR 983.206(b) on provision of tenant-based assistance applies.

**Termination by Owner [24 CFR 983.205(d)]**

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term,

the owner may terminate the HAP contract by giving notice to OCHA no fewer than 90 calendar days prior to the planned terminations, and families living in the contract units will be offered tenant-based assistance.

**Non-extension by Owner – Notice Requirements [24 CFR 983.206(a)]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify OCHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. The term *termination* for applicability of this notice requirement means the expiration of the HAP contract, termination of the HAP contract by agreement of OCHA and owner, or an owner's refusal to renew the HAP contract.

If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner and OCHA may agree to renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

**Termination or Expiration without Extensions – Required Provision of Tenant-Based Assistance [24 CFR 983.206(b)]**

Unless a termination or expiration without extension occurs due to a determination of insufficient funding or other extraordinary circumstances determined by HUD, upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher no fewer than 60 calendar days prior to the planned termination or expiration of the PBV HAP contract. However, OCHA is not required to issue the family a voucher if OCHA has offered the family an alternative housing option (e.g., an assisted unit in another PBV project), and the family chooses to accept the alternative housing option instead of the voucher.

Tenant-based assistance would not begin until the owner's required notice period ends. OCHA must provide the family with a voucher and the family must also be given the option by OCHA and owner to remain in their unit with HCV tenant-based assistance subject to the following:

- The unit must comply with housing quality standards;
- OCHA must determine or have determined that the rent for the unit is reasonable;
- The family must pay its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard (the limitation at 24 CFR 982.508 regarding maximum family share at initial occupancy does not apply); and
- The owner may not refuse to initially lease a unit in the project to a family that elects to use their tenant-based assistance to remain in the same project, except where the owner will use the unit for a purpose other than a residential rental unit. The owner may not later terminate the tenancy of such a family, except for the following grounds:
  - The grounds in [24 CFR 982.310](#), except paragraphs [24 CFR 982.310\(d\)\(1\)\(iii\)](#) and [\(iv\)](#);
  - The owner's desire to use the unit for a purpose other than a residential rental unit; and
  - The owner's desire to renovate the unit, subject to the following:
    - The owner must consider whether a reasonable alternative to terminating the

lease exists. If a reasonable alternative exists, the owner must not terminate the lease. The owner must consider the following alternatives:

- Completing renovations without the family vacating the unit, if the renovations can be completed in a manner that does not result in life-threatening conditions, does not result in deficiencies under housing quality standards that are not corrected within 30 days, and is mutually agreeable to the owner and the family; and
- Temporarily relocating the family to complete the renovations, if the relocation and renovations can be completed within a single calendar month (beginning no sooner than the first day of a month and ending no later than the last day of the same month) and the family can be relocated to a location and in a manner mutually agreeable to the owner and the family;
- If the owner terminates the lease for renovation, the owner must make every reasonable effort to make available and lease the family another unit within the project that meets the tenant-based voucher program requirements; and
- If no other unit within the project is available for the family to lease during the renovation period or the family chooses to move from the project during the renovation period, the owner must make every reasonable effort to make available and lease the family a unit within the project upon completion of renovations.

The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

The voucher issued to the family is the voucher attached to its unit under the expiring or terminating PBV contract. Consequently, if the family vacates the contract unit following the issuance of the tenant-based voucher and prior to the contract termination or expiration date, the PHA must remove the unit from the PBV HAP contract at the time the family vacates the unit. The PBV HAP contract must provide that, if the units continue to be used for rental housing upon termination or expiration without extension of a PBV HAP contract, each assisted family may elect to use its tenant-based assistance to remain in the same project.

Remedies for Housing Quality Standards Violations [24 CFR 983.208]

***The following is applicable to HAP contracts executed or renewed June 5, 2024, or earlier:***

OCHA will abate and terminate PBV HAP contracts for non-compliance with housing quality standards in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

***The following is applicable to HAP contracts executed or renewed June 6, 2024, or later.***

**Enforcement of Housing Quality Standards [24 CFR 983.208(b)]**

OCHA must vigorously enforce the owner's obligation to maintain contract units in accordance with housing quality standards. If the owner fails to maintain the dwelling unit in accordance

with housing quality standards, OCHA must take enforcement action. The unit is in noncompliance with housing quality standards if:

- OCHA or other inspector authorized by the state or local government determines the unit has housing quality standards deficiencies based upon an inspection;
- The agency or inspector notifies the owner in writing of the unit housing quality standards deficiencies; and
- The deficiencies are not remedied within the following timeframes:
  - For life-threatening deficiencies, the owner must correct the deficiency within 24 hours of notification;
  - For other deficiencies, the owner must correct the deficiency within 30 calendar days of notification (or any reasonable OCHA-approved extension).

In the case of a housing quality standards deficiency that OCHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control, other than any damage resulting from ordinary use, OCHA may waive the owner's responsibility to remedy the violation. Housing assistance payments to the owner may not be withheld or abated if the owner responsibility has been waived. However, OCHA may terminate assistance to a family because of housing quality standards breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control, which may result in removing the unit from the HAP contract.

OCHA will waive the owner's responsibility for housing quality standards deficiencies that have been determined to have been caused by the tenant, any member of the household, or any guest or other person under the tenant's control, to the extent the tenant can be held responsible for ensuring that the deficiencies are corrected: the tenant must take all necessary steps permissible under the lease and state and local law to remedy the deficiency. This may include paying the owner for the cost of the necessary repairs in accordance with the lease.

In the case of a housing quality standards deficiency that is caused by fire, natural disaster, or similar extraordinary circumstances, OCHA may permit the owner to undertake substantial improvement in accordance with 24 CFR 983.212. However, so long as the contract unit with deficiencies is occupied, OCHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

In the case of a project that is undergoing development activity after HAP contract execution, the remedies of 24 CFR 983.208(d) do not apply to units designated as unavailable for occupancy during the period of development activity in accordance with the rider. However, in the case of any contract unit with deficiencies that is occupied, OCHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

**Family Obligation [24 CFR 983.208(c)]**

The family may be held responsible for a breach of housing quality standards caused by any of the following:

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

- Damage to the dwelling unit or premises caused by a household member or guest beyond ordinary wear and tear.

Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.

If OCHA has waived the owner's responsibility to remedy the violation, the following applies:

- If the housing quality standards breach caused by the family is life-threatening, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 24 hours of notification.
- For other family-caused deficiencies, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 30 calendar days of notification (or any PHA-approved extension).

If the family has caused a breach of the housing quality standards, OCHA must take prompt and vigorous action to enforce the family obligations. OCHA may terminate assistance for the family in accordance with 24 CFR 982.552.

#### **PHA Remedies [24 CFR 983.208(d)]**

The remedies listed below apply when housing quality standards deficiencies are identified as the result of an inspection other than a pre-selection, initial, or turnover inspection. OCHA must identify in its administrative plan the conditions under which it will withhold HAP and the conditions under which it will abate HAP or terminate the HAP contract for units other than the unit with housing quality standards deficiencies.

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

OCHA will not withhold assistance payments upon notification to the owner of the deficiencies.

When life-threatening conditions are identified, OCHA 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 OCHA's notice.

When failures that are not life-threatening are identified, OCHA 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.

If the owner is responsible for correcting the deficiency, 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 OCHA-approved extension), the owner's HAP will be abated.

Likewise, if the family is responsible for correcting the deficiency, the notice will inform the family that if corrections are not made within the specified time frame (or any OCHA-approved extension, if applicable) the family's assistance will be terminated in accordance with OCHA policy (see Chapter 12).

#### **HAP Withholding [24 CFR 983.208(d)(1)]**

OCHA will not withhold assistance payments upon notification to the owner of housing quality

standards deficiencies.

#### **HAP Abatement [24 CFR 983.208(d)(2)]**

OCHA must abate the HAP, if the owner fails to make the repairs within the applicable cure period. OCHA may choose to abate payments for all units covered by the HAP contract due to a contract unit's noncompliance with the housing quality standards, even if some of the contract units continue to meet housing quality standards. In this case, OCHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by OCHA), OCHA will either terminate the HAP contract or remove the unit with deficiencies from the HAP contract, and any family residing in a unit that does not comply with housing quality standards will have to move if the family wishes to receive continued assistance.

The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance.

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

OCHA will abate payments only for those contract units that do not meet housing quality standards.

OCHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent.

#### **Failure to Make Repairs**

If an owner fails to make required repairs within 60 days (or a reasonable longer period established by OCHA) of the notice of abatement, OCHA will either remove the unit from the HAP contract or terminate the HAP contract in its entirety. OCHA will issue the family whose unit will be removed or all families residing in contract units, if OCHA is terminating the HAP contract, a tenant-based voucher to move at least 30 days prior to the removal of the unit from the HAP contract or termination of the HAP contract. A family may elect to remain in the project if the project contains a unit that meets the requirements of that section, with priority given to families who will remain in the same unit if there are insufficient units available to accommodate all families that wish to remain. OCHA must give any family residing in a unit that is either removed from the HAP contract or for which the HAP contract is terminated due to a failure to correct housing quality standards deficiencies at least 90 days or a longer period as OCHA determines is reasonably necessary following the termination of the HAP contract or removal of the unit from the HAP contract to lease a unit with tenant-based assistance.

OCHA will issue a family whose HAP contract is being terminated due to an owner failing to make required repairs within the required time frame a voucher no later than 30 days prior to the termination of the HAP contract. The initial term of the voucher will be 120 calendar days. No briefing is required for these families.

In order to receive tenant-based assistance under the HCV program, the family must submit a Request for Tenancy Approval and proposed lease within the 120-day period, unless OCHA grants an extension. OCHA will follow the policies set forth in Chapter 5 on voucher extension and expiration.

## **17-V.C. AMENDMENTS TO THE HAP CONTRACT**

### **Substitution of Contract Units [24 CFR 983.207]**

At OCHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, OCHA or another qualified person or entity will inspect the proposed unit, determine the reasonable rent for the unit and verify that the units existed at the time of HAP contract execution.

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

### **Addition of Contract Units [24 CFR 983.207(b)]**

At OCHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of OCHA's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

OCHA will consider adding contract units to the HAP contract when OCHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families);and
- Voucher holders are having difficulty finding units that meet program requirements.

### **17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b)(2) and 983.302(e)]**

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

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

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

### **17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]**

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

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with housing quality standards;
- 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 OCHA, and the lease is in accordance with the HAP contract and HUD

requirements;

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

#### **17-V.F. ADDITIONAL HAP REQUIREMENTS**

##### **Housing Quality and Design Requirements**

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

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

## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **17-VI.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.

### **17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

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

OCHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

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

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

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

### **17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

OCHA may establish a separate waiting list for PBV units, or it may use the same waiting list for both tenant-based and PBV assistance. OCHA may also merge the PBV waiting list with a waiting list for other assisted housing programs. If OCHA chooses to offer a separate waiting list for PBV assistance, OCHA will offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

For Permanent Supportive Housing projects, OCHA may issue project-based vouchers based on referrals from the Orange County Coordinated Entry System (CES). If OCHA chooses to accept referrals from CES, OCHA will connect applicants who are listed on the tenant-based waiting list to the appropriate party for placement on the CES list.

OCHA will not establish separate site-based waiting lists nor owner-maintained waiting lists.

**17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]****Income Targeting [24 CFR 983.251(c)(9)]**

At least 75 percent of the families admitted to OCHA's tenant-based and project-based voucher programs during the fiscal year from the waiting list will be extremely low income families. The income targeting requirement applies to the total of admissions to both programs.

**Units with Accessibility Features [24 CFR 983.251(c)(9)]**

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

**Preferences [24 CFR 983.251(c)(3)]**

OCHA 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. OCHA will provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B above.

Although OCHA is prohibited from granting preferences to persons with a specific disability, OCHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

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

If OCHA has projects with more than 25 percent of the units receiving project-based assistance because those projects include "excepted units" (units specifically made available for elderly or disabled families, or families receiving supportive services), OCHA will give preference to such families when referring families to these units .

**17-VI.E. OFFER OF PBV ASSISTANCE****Refusal of Offer [24 CFR 983.251(e)]**

If a family refuses OCHA's offer of PBV assistance or the owner rejects a family for admission to the owner's units, such refusal or rejection will not affect the family's position on the tenant-based voucher waiting list.

**Acceptance of Offer [24 CFR 983.252(a) and (b)]*****Family Briefing***

When a family accepts an offer for PBV assistance and is selected as a tenant, OCHA will give the family an oral briefing. The briefing will include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, OCHA will provide a

briefing packet that explains how OCHA determines the total tenant payment for a family, the family obligations under the program, OCHA's subsidy standards, the family's right to move, and applicable fair housing information.

***Persons with Disabilities***

If an applicant family's head or spouse is disabled, OCHA will assure effective communication, in accordance with 24 CFR 8.6 and 28 CFR Part 35, subpart E, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, OCHA will 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 [24 CFR 983.252(d)]***

OCHA will 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, HUD's implementing regulation at 24 CFR Part 1, Executive Order 13166 (see Chapter 2), and HUD's Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732) or successor authority,

**17-VI.F. OWNER SELECTION OF TENANTS**

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

**Leasing [24 CFR 983.252]**

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

**Filling Vacancies [24 CFR 983.254(a)]**

The owner must notify OCHA in writing by email within 5 business days of learning about any vacancy or expected vacancy.

OCHA will make every reasonable effort to refer families to the owner within 15 business days of receiving such notice from the owner.

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

If any contract units have been vacant for 120 days, OCHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. OCHA will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of OCHA's notice.

**17-VI.G. TENANT SCREENING [24 CFR 983.255]**

**OCHA Responsibility**

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

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

OCHA 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 housing quality standards inspection or before. OCHA 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, except when prohibited by state or local law:

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

## PART VII: OCCUPANCY

### 17-VII.A. OVERVIEW

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

### 17-VII.B. LEASE [24 CFR 983.256]

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

#### Form of Lease [24 CFR 983.256(b)]

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

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

OCHA may review the owner's lease form to determine if the lease complies with state and local law.

#### Lease Requirements [24 CFR 983.256(c)]

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

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

#### Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease will state:

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

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

The initial lease term will be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, OCHA will provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

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

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

The owner must notify OCHA 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 OCHA and in accordance with the terms of the lease relating to its amendment. OCHA will re-determine 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 re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy [24 CFR 983.257]**

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

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

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by OCHA policy. See Chapter 3-1.L. of this plan for OCHA policy on tenant absence.

**Continuation of Housing Assistance Payments [24 CFR 982.258]**

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

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

**Security Deposits [24 CFR 983.259]**

OCHA will allow the owner to collect a security deposit amount the owner determines is appropriate per California Law.

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. OCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

## **17-VII.C. MOVES**

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

OCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 15 business days of OCHA's determination. OCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If OCHA offers the family a tenant-based voucher, OCHA will terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by OCHA).

When OCHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given the end of the month following the month in which notice was given to accept the offer and move out of the PBV unit. If the family does not move out within this time frame, OCHA will terminate the housing assistance payments at the expiration of this period. OCHA 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 OCHA. If the family wishes to move with continued tenant-based assistance, the family must contact OCHA to request the rental assistance prior to providing notice to terminate the lease.

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

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

### **Emergency Transfers under VAWA [Notice PIH 2017-08 and 24 CFR 983.261(f) and (g)]**

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, OCHA will provide several options for continued assistance, including relocation or issuance of a tenant-based voucher, if available.

If a victim wishes to move after a year of occupancy in the unit, they will be issued a tenant-based HCV

## PART VIII: DETERMINING RENT TO OWNER

### 17-VIII.A. OVERVIEW

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

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

### 17-VIII.B. RENT LIMITS [24 CFR 983.301]

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

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

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

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

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

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

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

However, OCHA is permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent reasonableness requirements will continue to be met.

**Definitions**

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

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

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

When determining the initial rent to owner, OCHA and/or another qualified person or entity will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, OCHA will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, OCHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

**Redetermination of Rent [24 CFR 983.302]**

OCHA and/or another qualified person or entity will re-determine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

**Rent Increase**

OCHA will only consider requests for rent increases annually at the anniversary date of the HAP Contract.

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

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

Late requests for rent increases will be denied.

**Rent Decrease**

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner will be decreased regardless of whether the owner requested a rent adjustment. However, OCHA may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

**Notice of Rent Change**

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

**17-VIII.C. REASONABLE RENT [24 CFR 983.301(d) and 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 OCHA.

#### **When Rent Reasonable Determinations are Required**

OCHA will re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

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

#### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. When making this determination, OCHA and/or another qualified person or entity will 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. The reasonable rent determination must be based on the condition of the assisted unit at the time of the determination and not on anticipated future unit conditions.

#### ***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 will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by OCHA. The comparability analysis may be performed by OCHA 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.

#### **Owner Certification of Reasonable Rent**

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

#### **17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

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

#### **Other Subsidy [24 CFR 983.304]**

At its discretion, OCHA may reduce the initial rent to owner because of other governmental

subsidies, including grants and other subsidized financing.

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

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

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

**Combining Subsidy**

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

**Rent Control [24 CFR 983.305]**

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

## **PART IX: PAYMENTS TO OWNER**

### **17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

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

Per HUD regulations, OCHA cannot 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 OCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

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

### **17-IX.B. VACANCY PAYMENTS**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if OCHA determines the vacancy is the owner's fault.

If OCHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, OCHA will notify the owner of the amount of the housing assistance payments that must be repaid. OCHA will require the owner to repay the amount owed in accordance with the policies in 16-IV.B.

HUD regulations allow vacancy payments to be made at the discretion of the PHA. OCHA will not enter into any new HAP contracts that include payments to the owner for vacancy losses.

### **17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by OCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in OCHA 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 OCHA 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 OCHA. The owner will immediately return any excess payment to the tenant.

#### **Tenant and OCHA 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 OCHA.

Likewise, OCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. OCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. OCHA 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, OCHA will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner will be zero.

#### **17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

##### **Meals and Supportive Services**

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

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent.

However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

##### **Other Charges by Owner**

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

#### **17-IX.E. PROJECT RECORD RETENTION [24 CFR 983.12]**

The regulation at 24 CFR 982.158 applies to both OCHA's tenant-based and project-based programs. In addition, for each PBV project, OCHA must maintain the following records throughout the HAP contract term and for three years thereafter:

## Chapter 18

### FAMILY SELF-SUFFICIENCY PROGRAM

#### INTRODUCTION

Family self-sufficiency (FSS) is a HUD program to help HCV program families obtain employment that will lead to economic independence and self-sufficiency. Public housing agencies work with welfare agencies, schools, businesses, and other local partners to develop a comprehensive program that gives participating FSS family members the skills and experience to enable them to obtain employment that pays a living wage.

This chapter describes HUD regulations and OCHA policies related to FSS in one part:

#### Part I: Administration of FSS Program Requirements

This part details the program's requirements.

## **PART I: ADMINISTRATION OF FSS**

### **18-I.A. OVERVIEW**

Except for the provisions of the FSS program included in this chapter, OCHA policy and procedures contained in the chapters of this Administrative Plan apply to FSS.

### **18-I.B. ELIGIBILITY AND SELECTION**

Participation in FSS is voluntary and is open to current participants in the HCV program. The selection process is “first-come, first-served”, based upon date and time interest is expressed, until all mandatory slots have been filled.

### **18-I.C. DENIAL OF PARTICIPATION**

A request for participation in the FSS program may be denied under the following circumstances:

- The family previously participated in the FSS program and graduated.
- The family previously participated in the FSS program and did not meet their FSS obligations/goals and/or they were terminated from the FSS program.
- The family owes OCHA or another PHA money in connection with the HCV program.

### **18-I.D. OUTREACH AND MARKETING ACTIVITIES**

In partnership with other outside agencies, including the housing authorities from the cities of Anaheim, Garden Grove and Santa Ana, OCHA established and maintains a Program Coordinating Committee (PCC), whose function is to assist in securing commitments of public and private resources for the operation of the FSS program.

In addition, OCHA conducts marketing activities to HCV program participants that include:

- Distribution of FSS program brochures and interest cards.
- Conducting FSS program presentations during HCV program briefings for new participants.
- Participation in community sponsored events and activities.
- Presenting FSS program briefings for HCV program households who have requested additional information prior to becoming a new FSS participant.
- Displaying FSS program posters throughout the agency to market the program.
- Featuring FSS program information on OCHA’s website.
- Staffing a kiosk located in OCHA’s lobby to answer questions and encourage program participation.

### **18-I.E. CONTRACT OF PARTICIPATION**

To participate in FSS, the head of household must enter into a 5-Year Contract of Participation (COP) with OCHA. The COP must be executed within 120 days of the last annual/interim reexamination. If more than 120 days have elapsed, a new reexamination review will be performed, prior to, or commensurate with the effective date of the COP

The COP requires that:

- The household comply with HCV program regulations and with the provisions of their lease.
- All members of the assisted unit be independent of public assistance at the time of graduation from FSS.
- The head of household seek and maintain suitable employment during the term of the COP and any extension thereof.
  - HUD defines “seeking employment” as engaging in activities such as, looking for a job, applying for work, going on job interviews and otherwise, and following up on employment opportunities.
  - Suitable employment is defined as employment in more than minimum wage jobs, unless there is potential for advancement.

#### **18-I.F. INDIVIDUAL TRAINING AND SERVICES PLAN**

The head of household must complete and sign an *Individual Training and Services Plan* (ITSP). The role of OCHA staff is to help guide and assist the FSS participant in developing their ITSP through the following processes:

- Evaluating current job skills, training, experience, and educational level.
- Selecting goals that are relevant and build upon and enhance current skills and/or educational achievements that a client can commit to accomplishing within the 5-year term of the Contract of Participation (COP).
- Identifying the available services and resources needed in order to achieve their established goals.

#### **Mandatory Goals**

The ITSP must include the following goals:

- Interim – All household members must be independent of welfare assistance at the time of graduation from FSS.
- Final – Head of household must seek and maintain suitable employment.

The objective of the final goal is employment in more than minimum wage jobs, unless there is significant potential for advancement.

#### **Revising Goals**

During the first three years of the COP, established goals may be revised up to three times at OCHA’s discretion, providing that:

- The revised goals are comparable to those, which were initially established.
- The revised goals can be accomplished within the remaining term of the COP.

#### **18-I.G. ENHANCEMENT/SUPPORT SERVICES PROGRAM**

When available, OCHA may provide funding for an Enhancement Program that offers reimbursement for eligible expenditures such as, tuition, childcare, transportation, etc., paid participants who have demonstrated progress towards meeting the goals of their ITSP. An annual maximum reimbursable amount is allocated for each verified expense or allowable incentive.

Eligibility for reimbursements and/or incentives begins on the effective date of the COP,

therefore, expenses incurred and/or goals achieved prior to the effective date of the COP are not eligible for reimbursement. At OCHA's discretion, reimbursements for educational expenses may be allowed up to 90 days after expense was incurred.

Denial of a request for reimbursement is not subject to the Informal Review and or/Informal Hearing processes.

#### **18-I.H. ANNUAL ASSESSMENT OF PROGRESS**

OCHA will perform a mandatory annual FSS case management review to assess the progress and accomplishments that a participant has made towards meeting the goals of their ITSP. Documentation must be submitted by the participant to verify:

- Employment
- Training
- Education
- Supportive services received

#### **18-I.I. COMPLETING THE COP PRIOR TO OR UPON EXPIRATION**

An FSS participant is eligible to graduate from the program under the following circumstances:

The head of household has met their COP obligations – prior to, or upon the expiration date and all members of the household have been independent of public assistance at the time of graduation from FSS.

Whenever 30% of the family's monthly-adjusted income equals or exceeds the existing fair market rent for the bedroom size unit for which the family qualifies, and no member of the household is receiving public assistance.

The household must be in good standing in order for the head of household to graduate from the FSS program.

#### **18-I.J. ESCROW ACCOUNT**

OCHA will establish an interest-bearing FSS escrow account for each participant household. The account will be credited as a result of increases in a household's earned income. The amount of credit will be determined using a HUD-mandated formula referenced in HUD Form 52652.

OCHA will maintain a single depository account for all FSS families. These funds will be invested in one or more HUD approved investments. The total of the combined FSS account funds will be supported in OCHA accounting records by a subsidiary ledger showing the escrow balance applicable to each FSS family.

Investment interest shall be credited quarterly to each participating family's individual FSS account, based on the balance in each escrow account at the end of the period for which the investment interest is prorated.

If there is unreported income, OCHA will not credit the family's escrow account with any portion of the retroactive escrow credit that would have been earned had the income been reported timely.

#### **Eligibility to Receive Escrow Funds**

An FSS family is eligible to receive escrow account funds when:

- The head of household has met their COP obligations on or before the expiration date of

their COP and all members of the household have been independent of public assistance at the time of graduation from FSS.

- 30% of the family's monthly-adjusted income equals or exceeds the existing fair market rent for the bedroom size unit for which the family qualifies and no member of the household is receiving public assistance.
- The household must be in good standing in order for the head of household to receive escrow account funds from the FSS program.

#### **Forfeiture of Escrow**

An FSS family will forfeit their escrow if:

- The FSS family completes the COP, but any household member(s) is receiving public assistance.
- The FSS head of household never found employment during the 5-year term of their COP.
- The FSS family is terminated from the HCV program for program violations.
- The FSS family exits the program without completing their COP.
- The FSS head of household dies and the remaining family members elect not to continue participation in the program.

#### **18-I.K. EXTENSIONS**

Upon receipt of a request for an extension, OCHA will conduct a review of the case and make a determination to approve or deny the request. Approval of an extension will be contingent upon verification that the circumstances preventing the participant from completing their COP within the established time frame were beyond their control. If approved, the length of the extension is at OCHA's discretion, but in no instance will exceed two years.

#### **18-I.L. TERMINATION OF COP**

If after an annual case management review, it is determined that the head-of-household has made only a minimal or no effort in pursuing the goals established in their ITSP, OCHA has the option of terminating their COP and forfeiting any escrow, upon appropriate written notification to the family. Voluntary termination of participation in the FSS program will not jeopardize participation in the HCV program.

Prior to completing a COP and ITSP, if an FSS member is terminated from the HCV program for a noncompliance with HCV program regulations, their COP will terminate concurrently, and any accrued escrow will be forfeited.

If upon completion of the COP and ITSP, it is determined that the FSS household is in violation of HCV program regulations, graduation from the program will be denied and any accrued escrow will be forfeited.

#### **18-I.M. PORTABILITY**

##### **FSS Participation Outside OCHA Jurisdiction**

When an FSS participant moves outside of OCHA's jurisdiction, OCHA, as the initial issuing Housing Authority (IHA), will take one of the following actions:

Transfer FSS escrow account funds to the Receiving Housing Authority (RHA), upon receiving written notification that OCHA's FSS household has been absorbed, received a new HCV, and entered into a new COP/ITSP with the RHA for the remaining term of their

original COP.

Terminate the COP and forfeit any escrow funds, if the FSS household is unable to complete their COP and ITSP with OCHA, and continuing participation with the RHA FSS program is not an option or is declined.

**FSS Participation into OCHA Jurisdiction**

When a household moves into OCHA’s jurisdiction and the head of household wishes to participate in FSS, OCHA may absorb the household in compliance with HUD portability procedures.

If the head of household has an existing COP with the IHA, they may elect to transfer participation to OCHA or initiate a new COP to participate with OCHA.

## Chapter 19

### **FAMILY UNIFICATION PROGRAM [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)] AND FOSTER YOUTH TO INDEPENDENCE INITIATIVE [Notice PIH 2020-28; Notice PIH 2023-04; FR Notice 1/24/22]**

#### **INTRODUCTION**

Congress enacted the Family Unification Program (FUP) in 1990 to provide Section 8 rental assistance to families whose lack of adequate housing is a primary cause of the separation, or imminent separation, of a child or children from their families. FUP responded to growing concerns about the impact of housing problems on family stability and built upon efforts already in place in several states, including California. FUP provides rental assistance through the Housing Choice Voucher Program (HCV) to families who meet the eligibility criteria and are certified and referred by the public child welfare agency.

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows OCHA to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months. OCHA must have an existing ACC with HUD for HCVs.

Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28, Notice PIH 2021-26, or Notice PIH 2023-04, as applicable. Under the noncompetitive process, OCHA is limited to 25 vouchers in a fiscal year with the ability to request additional vouchers. OCHA may request FYI vouchers with 90 percent or greater utilization of its FUP and/or FYI vouchers. OCHA may be eligible for an exception to the utilization criteria with the submission to HUD of a narrative that explains why the PHA does not meet the utilization criteria and requires the award of FYI vouchers.

This chapter describes HUD regulations and OCHA policies related to FUP and FYI in two parts:

Part I: Administration of FUP  
This part details the program's requirements.

Part II: Administration of FYI  
This part details the program's requirements.

## **PART I: ADMINISTRATION OF FUP**

### **19-I.A. OVERVIEW**

#### **Coordination Between OCHA and Orange County Social Services Agency (SSA) to Identify and Assist Eligible Families**

Since January 1, 1991, OCHA and SSA have successfully collaborated in implementing other programs such as the OCHA Operation Bootstrap Program and the Family Self-Sufficiency Program. A Memorandum of Procedure (MOP) between SSA and OCHA provided the necessary framework for successful coordination of services to program participants. The MOP describes the coordination responsibilities between OCHA and SSA to implement the Family Unification Program (FUP).

Simultaneously with OCHA, SSA coordinates FUP with the Anaheim Housing Authority and the Santa Ana Housing Authority. Therefore, all three Public Housing Authorities (PHAs) have cooperated with SSA to develop a consistent approach in implementing and operating FUP in Orange County, California.

#### **FUP Program Funding**

The number of families and/or youths who may receive assistance under FUP is determined by the number of FUP Housing Choice Vouchers (HCVs) that have been awarded to OCHA through a competitive application process determined by HUD.

Implementation of FUP follows the provisions contained in the chapters of this Administrative Plan except for those areas defined as exceptions in the following sections.

### **19-I.B. ELIGIBILITY**

Program eligibility requirements and definitions contained in Chapter 3 of this Administrative Plan apply except as follows:

#### **Orange County Social Services Agency (SSA)**

SSA, Child Welfare Division, determines eligibility for participation in FUP. SSA identifies families and youths who meet the eligibility criteria of:

- Families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families.
- Youths 18 to 24 years old who left foster care at age 16 or older or will leave foster care within 180 days and lack adequate housing.

SSA certifies eligibility of selected families and youths and refers them to OCHA for processing. OCHA conducts an initial assessment of referred FUP candidates to determine eligibility under the provisions of the HCV program. FUP candidates who meet HCV program requirements are processed to receive rental assistance under FUP regulations.

OCHA will not apply a residency preference for FUP applicants (Notice PIH 2025-08).

Assistance to FUP youths is limited to 36 months unless the youth meets the

requirements of Family Stable Housing Opportunities to receive an extension for a total of 60 months of assistance. The number of months is calculated based on the number of months that HAP subsidy is paid on behalf of the youth, not the number of months that the youth is in the FUP program.

#### **Criminal Background Checks**

A background check will be performed for all adults at the time of initial eligibility, and upon addition of a member(s) to a household. Admission of individuals who have a history of drug-related and/or violent criminal activity will be at OCHA's discretion. Under no circumstances will OCHA admit a registered sex offender into the Family Unification Program.

#### **19-I.C. TARGETED FUNDING**

OCHA policy and procedures regarding application, waiting list, and tenant selection contained in Chapter 4 of this Administrative Plan do not apply to the FUP except as provided below:

- Referred FUP candidates selected by SSA, are admitted to the HCV program under the provisions of Targeted Funding, which provides tenant-based voucher assistance, utilizing funds specifically allocated to FUP.

#### **19-I.D. BRIEFINGS AND VOUCHER ISSUANCE [Notice PIH 2025-08]**

OCHA policy and requirements regarding briefings, and voucher issuance contained in Chapter 5 of this Administrative Plan apply to FUP, except for the following:

**Briefings:** Eligible families and youths referred to the FUP will receive an individual program briefing and receive a briefing packet at the time a HCV is issued in accordance with OCHA policies in Part I of Chapter 5 of this Administrative Plan. During the briefing, OCHA must inform FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot; and
- Supportive services available to them, the existence of any other program or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

**Voucher Issuance and Extensions:** Vouchers will be issued in accordance with OCHA policies in Chapter 5 Part II except for the following:

- Upon verification of minor children who will be returned to the FUP household provided by the referring SSA, the bedroom size voucher to be issued to the FUP household will be based upon the number of family members, including the minor children who are to be returned.
- The initial search term must be at least 120 days. The initial 120-day search term also applies when the FUP household chooses to move to a new unit with continued assistance inside or outside OCHA's jurisdiction.
- OCHA will approve the first voucher extension request whether submitted in writing or verbally. All subsequent voucher extension requests must be

submitted in accordance with OCHA policies in Chapter 5 of this Administrative Plan.

- All voucher extensions will be for a minimum of 90 days.
- OCHA will notify the FUP household at least once after voucher issuance and prior to the initial term expiration of the term expiration date, the process for requesting an extension, and to inquire if the household is in need of assistance with their housing search.

#### **19-I.E. VERIFICATION**

OCHA policy and requirements regarding verification of family composition and household income as contained in Chapter 7 of this Administrative Plan apply to FUP, except for the following:

- The annual re-certification of FUP households will include third-party verification with schools attended by minor household members to confirm (a) registration and (b) current address.

#### **19-I.F. TERMINATION OF ASSISTANCE AND TENANCY**

OCHA policy and procedures regarding the termination of assistance and tenancy contained in Chapter 12 of this Administrative Plan apply to FUP and, in addition, may include the following grounds for termination:

- The case plan has been changed, and re-unification of the family may not occur within a reasonable time period, as per verification received from the assigned SSA social worker.
- The Juvenile Court has ordered termination of re-unification services and an alternate permanent plan has been made for the child(ren).
- The child(ren) is/are removed from the assisted unit for an undefined period of time and/or custody is awarded to other relatives or another individual.
- FUP rental assistance issued to an emancipated youth is limited to a maximum of 18 months.

#### **19-I.G. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 5/7/24; 24 CFR 983.6(d)(2); 983.54(c); 983.262(c) and (e); and FR Notice 1/24/22]**

The PHA may project-base FUP vouchers without HUD approval in accordance with all statutory and regulatory requirements for the PBV program. See Chapter 17 for OCHA policies related to project-based vouchers.

#### **19-I.G. PROGRAM ADMINISTRATION**

OCHA policy and procedures contained in the remaining chapters of this Administrative Plan that have not been included in this chapter, will apply to FUP.

## PART II: ADMINISTRATION OF FYI

### 19-II.A. OVERVIEW

#### **Coordination Between OCHA, Orange County Social Services Agency (SSA), and Continuum of Care (CoC) to Identify and Assist Eligible Families**

Since January 1, 1991, OCHA and SSA have successfully collaborated in implementing other programs such as the OCHA Operation Bootstrap Program and the Family Self-Sufficiency Program. Similarly, OCHA and the Orange County CoC have a long history of partnering to address housing needs and end homelessness in Orange County. A Memorandum of Understanding (MOU) between SSA, the CoC, and OCHA provided the necessary framework for successful coordination of services to program participants as outlined in Notice PIH 2023-04. The MOU describes the coordination responsibilities between OCHA, SSA, and the CoC to implement the FYI program.

SSA is responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing written certification to OCHA that the youth is eligible; and
- Providing or securing a commitment for the provision of supportive services that are required to be offered. Participation in supportive services is optional, but strongly encouraged.

CoC is responsible for:

- Identifying FYI-eligible youth that are no longer part of the child welfare system;
- Referring FYI-eligible youth to SSA based on prioritization of need and appropriateness of the intervention.

#### **19-II.B. ELIGIBILITY [Notice PIH 2023-04; FYI Q&As; FYI FAQs]**

Program eligibility requirements and definitions contained in Chapter 3 of this Administrative Plan apply except as follows as determined by SSA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday);
- Youth must be no more than 24 years of age at the time SSA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act; and
- Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;

- Are homeless or at risk of becoming homeless at age 16 and older.;

*At risk of being homeless* is fully defined at 24 CFR 576.2.

This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements. OCHA may not exclude pregnant or parenting youth.

OCHA will not apply a residency preference for FYI applicants (Notice PIH 2025-08).

Any applicant that does not meet eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by OCHA in writing following policies in Sectio 3-III.F, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

Assistance to FYI youths is limited to 36 months unless the youth meets the requirements of Family Stable Housing Opportunities to receive an extension for a total of 60 months of assistance. The number of months is calculated based on the number of months that HAP subsidy is paid on behalf of the youth, not the number of months that the youth is in the FYI program.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

#### **Criminal Background Checks**

A background check will be performed for all adults at the time of initial eligibility, and upon addition of a member(s) to a household. Admission of individuals who have a history of drug- related and/or violent criminal activity will be at OCHA’s discretion. Under no circumstances will OCHA admit a registered sex offender into the FYI program.

#### **19-II.C. TARGETED FUNDING**

OCHA policy and procedures regarding application, waiting list, and tenant selection contained in Chapter 4 of this Administrative Plan do not apply to the FYI except as provided below:

Referred FYI candidates selected by SSA, are admitted to the HCV program under the provisions of Targeted Funding, which provides tenant-based voucher assistance, utilizing funds specifically allocated to FYI.

#### **19-II.D. BRIEFINGS AND VOUCHER ISSUANCE [FR Notice 1/24/22; Notice PIH 2023-04; Notice PIH 2025-08]**

OCHA policy and requirements regarding briefings, and voucher issuance contained in Chapter 5 of this Administrative Plan apply to FYI, except for the following:

##### **Briefings:**

Eligible youths referred to the FYI will receive a program briefing and receive a briefing packet at the time a HCV is issued in accordance with OCHA policies in Part I of Chapter 5 of this Administrative Plan.

During the briefing, OCHA must inform FYI youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot; and
- Supportive services available to them, the existence of any other program or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

#### **Voucher Issuance and Extensions:**

Vouchers will be issued in accordance with OCHA policies in Chapter 5 Part II except for the following:

The initial search term must be at least 120 days. The initial 120-day search term also applies when the FYI household chooses to move to a new unit with continued assistance inside or outside OCHA's jurisdiction.

OCHA will approve the first voucher extension request whether submitted in writing or verbally. All subsequent voucher extension requests must be submitted in accordance with OCHA policies in Chapter 5 of this Administrative Plan.

All voucher extensions will be for a minimum of 90 days.

OCHA will notify the FYI household at least once after voucher issuance and prior to the initial term expiration of the term expiration date, the process for requesting an extension, and to inquire if the household is in need of assistance with their housing search.

Once the youth locate a unit, OCHA conducts all other processing relating to voucher issuance and administration per HCV program regulations and OCHA policy in Chapter 9.

Should a youth fail to use the voucher, OCHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2023-04]. If another youth is not available, OCHA must notify HUD before the end of the calendar year, and HUD will reduce OCHA's HCV assistance to account for the removal of the FYI assistance from OCHA's HCV baseline.

#### **19-IL.E. TERMINATION OF ASSISTANCE AND TENANCY [FYI FAQs]**

OCHA policy and procedures regarding the termination of assistance and tenancy contained in Chapter 12 of this Administrative Plan apply to FYI and, in addition, may include the following grounds for termination:

FYI maximum rental assistance has been provided.

OCHA cannot terminate FYI assistance for noncompliance with supportive services or declining supportive services.

OCHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon expiration of the limit on assistance unless the FYI voucher holder was selected from the HCV waiting list in accordance with OCHA policies.

#### **19-IL.F. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22; Notice PIH 2024-03]**

The PHA may project-base FYI vouchers without HUD approval in accordance with all statutory and regulatory requirements for the PBV program. See Chapter 17 for OCHA policies related to project-based vouchers.

**19-II.G. PROGRAM ADMINISTRATION**

OCHA policy and procedures contained in the remaining chapters of this Administrative Plan that have not been included in this chapter, will apply to FUP.

## Chapter 20

### HCV ASSISTANCE FOR NON-ELDERLY DISABLED PERSONS (NED) CATEGORY 2

#### INTRODUCTION

The Department of Housing & Urban Development (HUD) and the Department of Health & Human Services (HHS) have partnered to provide HCV rental assistance and supportive services for Medicaid participants who are non-elderly and disabled to transition from nursing homes and other healthcare institutions, to affordable housing located within the community.

The State of California Health and Human Services (HHS) Agency administering the Medicare/Medicaid program, is responsible for the implementation of the Federal demonstration program, Money Follows the Person (MFP). Through this program, NED Medicaid participants moving from a nursing home or other healthcare institution, to affordable assisted housing located in the community, may continue to receive needed supportive services funded through Medicaid that will assist them to live independently.

OCHA has partnered with the Dayle McIntosh Center (DMC), who has been appointed by HHS as the Lead Organization Provider in Orange County. DMC is working with other California Community Transitions (CCT) to select and refer eligible Medicaid NED persons to OCHA and provide NED participants the supportive services and case management needed to enable them to make a successful transition back into the community and maintain independent living in a safe environment.

#### Part I: Administration of NED

This part details the program's requirements.

## PART I: ADMINISTRATION OF NED

### 20-I.A. OVERVIEW [Notice PIH 2013-19]

This section describes program policy and procedures unique to providing HCV assistance to non-elderly disabled (NED) persons who have requested relocation from a nursing home or other healthcare institution to housing located within the community. Implementation of NED follows the provisions contained in the Chapters of this Administrative Plan, except for those areas defined as exceptions in the following sections:

### 20-I.B. ELIGIBILITY [Notice PIH 2013-19; NED Category 2 FAQs]

#### **Definition of Family and Household Members:**

The definition of family and household members contained in Chapter 3 of this Administrative Plan do not apply to NED:

As the supportive services providers, the Dayle McIntosh Center (DMC), and other CCT agencies are responsible for selecting and identifying eligible program applicants who are:

- Between the ages of 18 to 61.
- Living in an institution (hospital, nursing facility, intermediate care facility for the mentally retarded, or an institution for mental diseases for a minimum of 90 days.
- Receiving Medicaid reimbursement for inpatient services.
- Requires Home and Community Based Services (HCBS) to successfully live in the community.
- The head of household, spouse, or sole member must be a disabled person. A household whose sole disabled member is a minor does not qualify as a NED household.

### 20-I.C. APPLICATIONS, WAITING LIST, AND TENANT SELECTION [Notice PIH 2013-19; NED Category 2 FAQs]

Chapter 4 of this Administrative Plan regarding applications, waiting list, and tenant selection do not apply to NED.

#### **Applications:**

The partnering resource agencies are OCHA's primary sources of eligible applicant referrals. These agencies are responsible for identifying and referring eligible NED persons, and providing care/case management, as well as linking individuals to necessary health and social services that will enable applicants to live independently.

#### **Waiting List and Tenant Selection:**

HUD funding for the NED program targets a designated population who have special needs. Eligible applicants must meet specifically defined program requirements and must also be income eligible for the HCV program. Eligible referred applicants will first be identified and selected from OCHA's wait list, regardless of their current placement. If there are an insufficient number of qualifying applicants on the wait list, OCHA will open the wait list to only those families who are referred by DMC, and other CCT agencies. Eligible applicants will be selected for HCV eligibility processing as funding becomes available.

**20-I.D. BRIEFING AND VOUCHER ISSUANCE [Notice PIH 2013-19]**

The policy and procedures contained in Chapter 5 of this Administrative Plan, regarding Briefings, do not apply to NED.

**Briefings:**

When referred applicants are processed for HCV eligibility, during the initial eligibility interview, the applicant will receive a one-on-one briefing, which will contain the same information as distributed during a scheduled HCV briefing.

**Extension:**

OCHA may approve more than one extension for a NED voucher recipient depending on the circumstances and or recommendation by the case manager. If approved, the length of each extension is at OCHA's discretion, and will not exceed 60 days.

**20-I.E. MOVING WITH CONTINUED ASSISTANCE/PORTABILITY**

As a reasonable accommodation for a person with disabilities, OCHA may allow non-resident applicants to port their voucher to another PHA locality within the first year of receiving the voucher, if the supportive services a person needs in order to live in the community might only be available in an area outside OCHA's jurisdiction.

**20-I.F. INCOME CALCULATING**

At the initial examination, OCHA will base the income and TTP calculations on the amount of SSI the transitioning person currently has documentation to show that they receive (the smaller amount), and when the documentation with the new payment amount is available, the OCHA will perform an interim reexamination to recalculate the family's TTP. If the documentation with the new payment amount is available at the time OCHA initially calculates the family's income and TTP, OCHA would use the amount the family is anticipated to receive.

**20-I.G. RENT REASONABLENESS AND PAYMENT STANDARDS**

As a reasonable accommodation, OCHA may consider approving a higher contract rent to an owner, up to 110% of the current FMR for the bedroom size of the assisted unit.

**20-I.H. SPECIAL HOUSING TYPES [Notice PIH 2013-19; NED Category 2 FAQs]**

OCHA policy regarding eligible housing types contained in Chapter 15 of this Administrative Plan will apply to the NED Program.

**20-I.J. PROJECT-BASED VOUCHERS**

The policy and procedures contained in Chapter 17 of this Administrative Plan do not apply to the NED program.

## Chapter 21

### VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

#### INTRODUCTION

The Veterans Affairs Supportive Housing (VASH) program provides voucher assistance for homeless veterans receiving case management, health and other supportive services through the Veterans Affairs Medical Center (VAMC) located in Long Beach, California. OCHA has partnered with VAMC to administer HUD-VASH voucher assistance for eligible homeless veterans who have been selected by VAMC and referred to OCHA for HCV eligibility processing.

#### Part I: Administration of VASH

This part details the program's requirements.

## **PART I: ADMINISTRATION OF VASH**

### **21-I.A. PROGRAM OVERVIEW**

This section describes program policy and procedures unique to providing HCV assistance to homeless veterans who are referred to OCHA by the Veterans Affairs Medical Center in Long Beach. Implementation of VASH follows the provisions contained in the Chapters of this Administrative Plan, except for those areas defined as exceptions in the following sections:

### **21-I.B. ELIGIBILITY [FR Notice 8/13/24]**

The provisions contained in Chapter 3 of this Administrative Plan apply to VASH, except in the following areas:

#### **Eligible Family Household:**

The Veterans Affairs Medical Center (VAMC), located in Long Beach is responsible for determining a veteran's homeless status and referring the homeless veteran to OCHA.

OCHA will only determine income eligibility, verify citizenship, and screen for lifetime sex-offender registrants.

#### **Mandatory Denial of Assistance [FR Notice 8/13/24]**

OCHA will perform a background check for the head of household and all adult family members and will deny admission only if the head of household or any other adult family member is subject to a lifetime requirement under a state sex offender registration program. Unless the family member that is subject to lifetime registration under a state sex offender law is the homeless veteran, the remaining family member may be served if the family agrees to remove the sex offender from its family composition.

#### **Social Security Numbers**

When verifying Social Security Numbers (SSNs) for veterans and their family members, OCHA must use available flexibilities in accordance with 24 CFR 5.216(g)(1)(iii) to accept self-certification of SSNs and at least one third-party document, such as a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual in the absence of other documentation.

OCHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN if these forms are available and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a veteran.

#### **Proof of Age**

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a veteran.

#### **Photo Identification**

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

#### **Income Eligibility [FR Notice 8/13/24]**

With some exceptions, OCHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. Low-income families (80

percent of AMI) are eligible for assistance under VASH, and OCHA may not condition eligibility based on additional eligibility criteria specified in its administrative plan. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for assistance.

The following alternative requirements related to income apply to VASH families:

- OCHA must determine the applicant's annual income for purposes of income eligibility by excluding all VA service-connected benefits received by the applicant. This special income exclusion only applies to the definition of annual income for purposes of determining income eligibility. If the HUD-VASH applicant qualifies as a low-income family under the alternative requirement, the VA service-connected benefits (with the exception of the normally excluded deferred VA disability payments under 24 CFR 5.609(b)(16) and the payments related to aid and attendance under 24 CFR 5.609(b)(17)) must still be included as annual income when calculating the family's adjusted income. In other words, the VA service-connected disability benefits are excluded for purposes of determining income eligibility but included for purposes of calculating the family's total tenant payment (TTP), housing assistance payment (HAP), and family share.
- When a veteran family reports that they have zero income, the OCHA must accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to verify the family is indeed zero income. The self-certification does not need to be notarized. OCHA must verify families' income in the Enterprise Income Verification (EIV) system within 120 days after admission. OCHA may not deny zero income families.
- In determining compliance with the asset limitation at admission, for the VASH program, OCHA must accept a self-certification by the family that the family's total assets are equal to or less than the HUD-published asset limitation amount (adjusted annually) and that the family does not have any present ownership interest in real property, without taking additional steps to verify the accuracy of the declaration.
- OCHA must not enforce the asset limitation for VASH families at reexamination.
- In addition, because there needs to be a monthly housing assistance payment (HAP) in order to enter into a HAP contract on behalf of a tenant-based voucher family, the utilization of tenant-based VASH assistance by families determined income-eligible is limited to those areas where the family's (TTP) is less than the applicable payment standard or exception payment standard. The family must select a unit with a gross rent that is above the family's TTP in order to lease a unit with the tenant-based VASH voucher.

## **21-I.C. CHANGES IN FAMILY COMPOSITION**

### **Adding Family Members [FR Notice 8/13/24]**

When adding a family member after the family has been admitted to the program, OCHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, OCHA must approve additional family members and will apply its regular screening criteria in doing so.

### **Remaining Family Members [HUD-VASH Qs and As]**

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. OCHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the

VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

#### **Family Break Up [HUD-VASH Qs and As]**

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides OCHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

#### **21-I.D. APPLICATIONS, WAITING LIST, AND TENANT SELECTION**

Chapter 4 of this Administrative Plan regarding applications, waiting list, and tenant selection do not apply to VASH.

#### **Applicants:**

The VAMC is responsible for the selection and referral of eligible homeless veterans and their families to OCHA for eligibility processing to receive HCV assistance. Applicants must be income eligible for the HCV program and meet other specific program requirements as described within this section.

#### **21-I.E. BRIEFING AND VOUCHER ISSUANCE [FR Notice 8/13/24]**

The policy and procedures contained in Chapter 5 of this Administrative Plan, regarding Briefings, do not apply to VASH.

#### **Briefings:**

After referred applicants are processed for eligibility the applicant will complete a briefing which will contain the same information as distributed during a HCV briefing.

VASH participation in OCHA's FSS program will be encouraged.

#### **Voucher Issuances and Extensions:**

- All VASH vouchers will have an initial term of 120 days.
- OCHA policies on extensions as outlines in Section 5-II.E. will apply.
- OCHA may approve more than one extension for a VASH voucher recipient depending on the circumstances recommended by the VAMC. If approved, the length of the extension is at OCHA's discretion, and will not exceed 60 days.

#### **Special Housing Types [FR Notice 8/13/24]**

OCHA must permit VASH voucher holders to use the following special housing types for tenant-based VASH assistance:

- Single room occupancy (SRO)
- Congregate housing
- Group home
- Shared housing
- Cooperative housing

#### **Initial Lease Term**

VASH voucher holders may enter into an initial lease that is less than 12 months.

#### **21-I.F. MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY [Notice PIH 2011-53; FR Notice 8/13/24]**

Eligibility to move under the provisions of portability, as contained in Chapter 10 of this

Administrative Plan applies to VASH participants under the following condition:

VASH participants may move outside OCHA jurisdiction under the provisions of portability upon the approval of VAMC, who must determine if they are able to provide case management services in the selected jurisdiction or if services are still needed by that VASH participant, the receiving PHA may administer or absorb the family.

VASH families may move under portability even if the family did not have legal residency in OCHA's jurisdiction when they applied.

A family that moves under portability procedures must not be subject to rescreening by the receiving PHA.

If the VASH family no longer requires case management, there are no portability restrictions and normal portability rules apply.

#### **Portability under VAWA**

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). OCHA may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participant's request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

#### **21-I.G. TERMINATION OF ASSISTANCE AND TENANCY [FR Notice 8/13/24]**

The provision contained in Chapter 12 of this Administrative Plan applies to VASH, except in the following areas:

- OCHA will work closely with the VAMC to help VASH clients to determine if there are extenuating circumstances that should be considered to avoid the termination.
- VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to OCHA but could not be considered at the time of admission due to VASH program requirements. OCHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

There are two alternative requirements for termination of assistance for VASH participants.

#### **Cessation of Case Management**

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive

case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP. However, OCHA may offer the family continued assistance through one of its regular vouchers or a PBV unit not exclusively made available for HUD-VASH.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, OCHA may offer the family continued assistance through one of its regular vouchers. The decision to transfer assistance to a regular voucher must consider veteran preference and must be communicated to the VA prior to occurring. If OCHA has no voucher to offer, the family will retain its VASH voucher, or PBV unit, until such time as OCHA has an available voucher (or PBV unit not exclusively made available for VASH) for the family. If OCHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as OCHA has an available voucher for the family.

#### **Serious Violation of the Lease**

The regulation at 24 CFR 982.552(b)(2) states OCHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease. HUD waived this provision, and establishing the alternative requirement that OCHA may terminate program assistance in this case. Prior to terminating VASH participants for serious violation of the lease, OCHA will exercise discretion under 24 CFR 982.552(c)(2) and consider all relevant circumstances of the specific case, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance.

#### **VAWA [FR Notice 8/13/24]**

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

#### **21-I.G. PROJECT-BASED VOUCHERS [Notice PIH 2017-21; FR Notice 8/13/24]**

##### **General Requirements [Notice PIH 2017-21; FR Notice 8/13/24]**

OCHA is authorized to project-base tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit. In the description of units in Exhibit A of the HAP contract, OCHA must indicate the number of units that will be exclusively made available to VASH families. OCHA must refer only VASH families to PBV

units exclusively made available to VASH families and to PBV units funded through a VASH PBV set-aside award.

If OCHA project-bases VASH vouchers, OCHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. OCHA may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. OCHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to OCHA and there is an available PBV unit that is not exclusively made available to VASH families, OCHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and OCHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

OCHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as OCHA first consults with the VAMC or DSP. Additionally, OCHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the OCHA's program and project caps).

Policies for VASH PBV units will generally follow OCHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

#### **Termination of Assistance**

A VASH family's PBV assistance must be terminated for failure to participate in case management when required by the VA. However, OCHA may allow the veteran family to receive a regular (non-VASH) tenant-based voucher or PBV unit instead of the family's assistance being terminated. In this case, the PHA may:

Substitute the family's unit on the PBV HAP contract for another unit (OCHA may, in conjunction with such substitution, add the original unit to the PBV HAP contract with a non-VASH voucher if it is possible to do so;

Remove the unit from the PBV HAP contract so the family may remain with tenant-based assistance, if the family and the owner agree to use the tenant-based voucher in the unit; or

Change the unit's status in the PBV HAP contract from a unit exclusively made available for VASH to a regular PBV unit, if doing so is allowable under program rules.

If OCHA will not allow the veteran to receive a regular (non-VASH) tenant-based voucher or PBV unit instead of the family's assistance being terminated, then upon notification by the VA of the family's failure to participate in VA-required case management, OCHA must provide the family a reasonable period of time (as established by OCHA) to vacate the unit.

#### **PHA Policy**

If the family fails to participate in case management when required by the VA, OCHA will terminate the family's assistance. The family will have 120 days to vacate the unit. OCHA will terminate assistance to the family at the earlier of (1) the time the family vacates or (2) the expiration of the 120-day period. If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, OCHA will remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. OCHA may add the removed unit back onto the

HAP contract after the ineligible family vacates the property.

#### **Wrong-Sized or Accessible Units**

If OCHA determines that a VASH family is occupying a wrong-size PBV unit or a PBV unit with accessibility features that the family does not require and the PBV unit is needed by a family that requires the accessibility features, OCHA must notify the family and the owner within 30 days of the OCHA's determination. OCHA's offer of continued housing assistance (that must be made within 60 days of OCHA's determination) must be in the form of either a VASH tenant-based voucher or another VASH PBV unit. If no VASH assistance is available for OCHA to offer within 60 days of the OCHA's determination, OCHA must remove the wrong-sized or accessible unit from the HAP contract to make VASH voucher assistance available to the family.

#### **Contract Terminations**

The regulation at 24 CFR 983.206(b), which covers the required provision of tenant-based assistance and requires that the family may elect to use its tenant-based assistance to remain in the same project when a PBV HAP contract terminates or expires, does not apply to families issued a HUD-VASH tenant-based voucher under this circumstance. OCHA may use another voucher to add the unit removed under this alternative requirement to the HAP contract after the family vacates the property, in accordance with 24 CFR 983.207(b).

#### **Rents**

Contract rents may not be different based on whether the unit is a VASH PBV unit or a non-VASH PBV unit. In determining the rent to owner for the PBV project, if the cap on the amount of rent to owner under 24 CFR 983.301(b)(1) is lower for non-HUD-VASH units than it is for the HUD-VASH units (e.g., the OCHA has established a HUD-VASH exception payment standard and there is either no exception payment standard or a lower exception payment standard for the regular HCV program for the area in question), that lower cap is applicable when setting the rent to owner for the PBV units in the project, including the HUD-VASH units.

#### **Removing Units from the HAP Contract for Ineligible Families**

OCHA and owner may also agree to temporarily remove a unit from the HAP contract in cases where a HUD-VASH eligible veteran has been identified by the VA as appropriate for a VASH PBV unit, but the veteran is not income eligible to receive voucher assistance or may not be selected for the PBV unit because the family's TTP exceeds the gross rent of the unit. Although the family would not be a program participant in the housing portion of the VASH program in such a case, the family would still benefit from the VASH supportive services onsite at the project, while the VASH voucher would be available to assist another VASH family. OCHA and owner may agree to add a VASH voucher back onto the PBV HAP contract if the family's income subsequently decreased to the point that there would be a HAP or when the family vacates the unit.

#### **Zero HAP Families**

Under normal PBV requirements, OCHA may select an occupied unit to be included under a PBV HAP contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201, and the TTP for the family is less than the gross rent for the unit. Furthermore, in selecting a family for an available PBV unit, typically the OCHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP. However, if the PBV project has HUD-VASH supportive services provided onsite at the

project, OCHA may opt to select a unit occupied by a zero HAP VASH eligible family or admit a zero HAP VASH family to a unit if such unit is made exclusively available to VASH families. Until such time that the VASH family's TTP falls below the gross rent, the family is responsible for paying the entire rent to owner in addition to being responsible for paying all tenant-supplied utilities. During any period that the family's TTP falls below the gross rent, normal PBV requirements apply.

Further, under normally applicable rules, units occupied by families whose incomes have increased during their tenancy resulting in their TTP equaling the gross rent (zero HAP) must be removed from the HAP contract 180 days following the last housing assistance payment to the owner on the family's behalf. These regulations do not apply to zero HAP families admitted to the PBV project under this waiver and alternative requirement because there is no last housing assistance payment that would trigger the unit removal date of 180 days. As an alternative requirement, OCHA has the option of removing the unit in which the zero HAP family resides from the HAP contract, but no earlier than 180 days from the start of the family PBV tenancy. If OCHA exercises this option, the family may not be required to move from the unit as a consequence and continues to receive the VASH supportive services. If the project is fully assisted, OCHA may reinstate the unit removed to the HAP contract after the family either vacates the unit or their income decreases to the point that there would be a HAP. If the project is partially assisted, OCHA may substitute a different unit for the unit removed from the HAP contract when the first eligible substitute unit becomes available. Alternatively, OCHA may choose to simply leave the unit on the HAP contract while the zero HAP family continues to reside there.

#### **Proposal/Project Selection**

PBV proposal and/or project selection for VASH must follow all regular proposal and/or project selection regulations, with one exception. HUD permits noncompetitive selection of one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility. Note that the method of project selection must comply with all other requirements under 24 CFR 983.51, including that the OCHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan and to ensure any project selection is consistent with the PHA administrative plan.

#### **Failure to Participate in Case Management [FR Notice 8/13/24][FR Notice 9/27/21]**

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, OCHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, OCHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. OCHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

#### **Moves [HUD-VASH Qs and As, FR Notice 8/13/24][FR Notice 9/27/21]**

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the OCHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, OCHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless OCHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, OCHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

**21-I.I. PROGRAM ADMINISTRATION**

**Management Assessment (SEMAP):**

Requirements of SEMAP reporting do not apply to HUD-VASH vouchers.

## Chapter 22

### MAINSTREAM VOUCHER PROGRAM

#### INTRODUCTION

The Omnibus Appropriations Acts of 2017 and 2018 made funding available for new Section 811 Housing Choice Vouchers, known hereafter as the Mainstream Voucher Program, to provide non-elderly persons with disabilities rental assistance (particularly those transitioning out of institutions or at serious risk of institutionalization) in the form of either project-based or tenant-based voucher assistance. On April 18, 2018, HUD published a NOFA for the Mainstream Voucher Program. The NOFA encouraged PHAs to formalize partnerships and leverage resources from State Medicaid Agencies and various health and human services partner agencies and organizations.

In response to the 2018 NOFA, OCHA and the Orange County Health Care Agency (HCA) submitted an application proposing to provide Mainstream Voucher Program rental assistance to eligible participants receiving services via HCA's Whole Person Care (WPC) program.

On September 4, 2018 OCHA received funding to implement and administer the Mainstream Voucher Program. On January 01, 2019, OCHA and HCA entered into a Memorandum of Understanding (MOU) to affirm the commitments made in OCHA's application for Mainstream Voucher Program funding and to provide the framework under which the program will be implemented and administered.

In 2020, OCHA received additional Mainstream Voucher Program funding and entered into a MOU with the Orange County Continuum of Care (CoC) to document the framework under which the expanded program will be implemented and administered.

Funding and reporting for Mainstream vouchers is separate from the HCV program. Funds for Mainstream vouchers may be recaptured and reallocated if OCHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for OCHA's Mainstream vouchers.

The Consolidated Appropriations Act, 2024 (Public Law 118-42) authorized HUD to establish waivers and alternative requirements for Mainstream Vouchers related to the administration of waiting lists, local preferences, and the initial term and extensions of tenant-based vouchers. HUD is not permitted to waive requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment. Prior to this, Mainstream vouchers followed the same program requirements as standard vouchers.

The Mainstream Voucher Program will be administered in accordance with the regulations found at [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/mainstream](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/mainstream) and in Notice PIH 2020-01 and Notice PIH 2024-30, found at <https://www.hud.gov/hudclips/notices/pih>.

#### Part I: Administration of Mainstream

This part details the program's requirements.

## PART I: ADMINISTRATION OF THE MAINSTREAM VOUCHER PROGRAM

### 22-I.A. OVERVIEW

This section describes program policy and procedures unique to the Mainstream Voucher Program. Implementation of the Mainstream Voucher Program follows the provisions contained in the Chapters of this Administrative Plan, except for those areas defined as exceptions in the following sections:

### 22-I.B. ELIGIBILITY [Notice PIH 2020-01; Notice PIH 2020-22]

#### Definition of Family and Household Members:

The definition of family and household members contained in Chapter 3 of this Administrative Plan do not apply to the Mainstream Voucher Program.

Through the MOU, HCA is responsible for selecting and identifying eligible program applicants who are:

- Between the ages of 18 and 61 as of the effective date of the HAP contract
- Has a disability, as defined in 42 U.S.C. 423;
- Is determined, pursuant to US Department of Housing and Urban Development regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long-continued and indefinite duration;
  - Substantially impedes his or her ability to live independently, and
  - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - Has a developmental disability as defined in 42 U.S.C. 6001

OCHA may target additional populations to address unmet needs in OCHA's jurisdiction if identified in future Notice of Funding Availability applications for the Mainstream Voucher program.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program. 22-I.C. APPLICATIONS, WAITING LIST, AND TENANT SELECTION [ Notice PIH 2024-30]

Chapter 4 of this Administrative Plan regarding applications, waiting list, and tenant selection do not apply to the Mainstream Voucher program.

#### Applications:

HCA and the CoC are OCHA's primary source of eligible applicant referrals. HCA and the CoC will identify persons who would meet the requirements for the Mainstream Voucher Program. HCA and the CoC will complete the Mainstream Voucher Referral letter and submit it to OCHA for a review of eligibility. HCA and OCHA will cooperate with the Orange County Coordinated Entry System (CES) in an effort to connect those experiencing homelessness who qualify for the Mainstream Voucher Program to stable housing.

**Waiting List and Tenant Selection:**

HUD funding for the Mainstream Voucher program targets a designated population. Eligible applicants must meet specifically defined program requirements and must also be income eligible for the HCV program. Eligible referred applicants will first be identified and selected from OCHA's wait list, regardless of their current placement. If there are an insufficient number of qualifying applicants on the wait list, OCHA will open the wait list to only those families who are referred by HCA or the CoC. Eligible applicants will be selected for HCV eligibility processing as funding becomes available.

**Preferences**

OCHA may not apply a residency preference to Mainstream voucher applicants.

**22-I.D. BRIEFING AND VOUCHER ISSUANCE [Notice PIH 2024-30]**

The policy and procedures contained in Chapter 5 of this Administrative Plan, regarding Briefings, do not apply to the Mainstream Voucher program.

**Briefings:**

When referred applicants are processed for HCV eligibility, during the initial eligibility interview, the applicant will receive a one-on-one briefing, which will contain the same information as distributed during a scheduled HCV briefing.

**Voucher Issuance**

The initial voucher term for all Mainstream vouchers, including those issued when a family wishes to exercise portability, will be 120 days.

When issuing a Mainstream voucher, OCHA will provide a current listing of available accessible units known to OCHA and, if necessary, otherwise assist the family in identifying an accessible unit.

**Extension:**

At least 30 days prior to the expiration of the initial term of the voucher, OCHA will contact the family to remind them of the expiration date of their voucher, the process for requesting an extension, and to inquire if the family needs assistance with their housing search. Depending on the family's preferred method of communication, OCHA will contact the family in writing and may contact the family via telephone, text message, email, or other accessible communication method. OCHA will ensure effective communication with persons with disabilities, including those with vision, hearing, speech, intellectual or other developmental disabilities, or any other communication-related disabilities.

Families may request an initial extension, either orally or in writing, at any time prior to the expiration of the family's voucher. All initial requests for extensions will automatically be granted without the requirement for the family to provide documentation. The initial extension period will be for 90 days.

If the family requires additional extensions beyond 90 days, the family may request additional extensions. All subsequent voucher extension requests must be submitted in accordance with OCHA policies in Chapter 5 of this Administrative Plan.

**22-I-E. PORTABILITY [NOTICE PIH 202-01; Mainstream Voucher Basics Webinar, 10/15/20]**

Mainstream voucher participants are eligible for portability under standard portability rules and all OCHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at OCHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

## Chapter 23

### EMERGENCY HOUSING VOUCHERS (EHVs)

#### INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

## PART I: FUNDING

### 23-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### **Housing Assistance Payments (HAP) Funding**

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

#### **Administrative Fee and Funding**

The following four types of fees and funding are allocated as part of the EHV program:

- Preliminary fees support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
- \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (23-I.B).
- Placement fees/expedited issuance reporting fees will support initial lease-up costs and the added cost and effort required to expedite leasing of EHVs:
  - \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center-Next Generation (PIC-NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.

#### **Placement fees:**

- \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or

- \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
- HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.

Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.

**Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:

- PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
- Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.

**Services fees**, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):

- The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
- The amount allocated is \$3,500 for each EHV allocated.

### **23-I.B. SERVICE FEES**

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses

Other eligible uses such as moving expenses or tenant-readiness services

OCHA entered into an MOU on July 16, 2021 between the Orange County Continuum of Care and Orange County Health Care Agency identifying the Health Care Agency, Office of Care Coordination as the contracting agency on behalf of OCHA for the provision of housing search assistance and housing stabilization services for the EHV's.

The Office of Care Coordination contracted service providers are committed to providing, at minimum, the HUD required Housing Search Assistance activities defined in Notice PIH 2021-15.

Any services fee assistance that is returned to OCHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when OCHA's EHV program ends must be remitted to HUD.

## PART II: PARTNERING AGENCIES

### 23-II.A. CONTINUUM OF CARE (CoC)

PHAs that accept an allocation of EHV's are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

OCHA entered into an MOU on July 16, 2021 between the Orange County Continuum of Care and Orange County Health Care Agency as required by Notice PIH 2021-15.

### 23-II.B. REFERRALS

CoC and Partnering Agency Referrals

The CoC, through the Coordinated Entry System (CES), will make direct referrals of qualifying individuals and families to OCHA. The CoC will determine whether the individual or family qualifies under one of the four eligibility categories for EHV's and provide verification and supporting documentation to OCHA certifying that determination.

As part of the MOU, OCHA and the CoC have identified lead EHV liaisons who are responsible for the transmission and acceptance of referrals. Both OCHA and the CoC have committed to provide sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

OCHA will request referrals through the Homeless Management Information System (HMIS) and the CES will supply the requested number of referrals via email referencing the unique HMIS identifier and the housing search provider associated with the referred individual or family. OCHA staff will access HMIS and accept the referral by securely downloading the EHV application, release form(s), and the written certification.

A mutually convenient meeting schedule will be established between the OCHA, the CES, the Office of Care Coordination, and the housing search providers in order to provide updates on referred matches, application status, lease-up status, and vouchers available.

Offers of Assistance with CoC Referral

OCHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP) in Chapter 16.

OCHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time OCHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or OCHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit OCHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

## **PART III: WAITING LIST MANAGEMENT**

### **23-III. A. HCV WAITING LIST**

The regulation that requires OCHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the EHV program. Direct referrals are not added to OCHA's HCV waiting list.

OCHA must inform families on the HCV waiting list of the availability of EHVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

OCHA will post information about the EHV program for families on OCHA's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which EHVs are limited.
- Clearly state that the availability of these EHVs is managed through a direct referral process.

Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for EHV assistance.

OCHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. OCHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

### **23-III.B. EHV WAITING LIST**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. HUD requires that when the number of applicants referred by the CoC or partnering agency exceeds the EHVs available, a PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023. OCHA will not request more referrals from CES than EHVs available.

### **23-III.C. PREFERENCES**

#### **HCV Waiting List Preferences**

OCHA does not offer a preference for individuals experiencing homelessness or for VAWA for the HCV waiting list.

#### **EHV Waiting List Preferences**

No local preferences have been established for the EHV waiting list.

## PART IV: FAMILY ELIGIBILITY

### 23-IV.A. OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to OCHA. OCHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### 23-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to OCHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. OCHA must retain this documentation as part of the family's file.

### 23-IV.C. PHA SCREENING

#### Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, OCHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

#### Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of

the household is subject to a lifetime registration requirement under a state sex offender registration program.

OCHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, OCHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

#### **Permissive Denial**

Notice PIH 2021-15 lists permissive prohibitions for which OCHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If OCHA intends to establish permissive prohibition policies for EHV applicants, OCHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

In consultation with the CoC, OCHA will not apply permissive prohibitions to the screening of EHV applicants.

OCHA will deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

In compliance with PIH 2021-15, the PHA will not deny an EHV applicant admission regardless of whether:

- Any member of the family has been evicted from federally assisted housing in the last five years;
- A PHA has ever terminated assistance under the program for any member of the family;
- The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;
- The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;
- The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3)
- The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

#### **23-IV.D. INCOME VERIFICATION AT ADMISSION**

##### **Self-Certification at Admission**

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs

may consider self-certification the highest form of income verification at admission. As such, OCHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the OCHA's request.

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

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

OCHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. OCHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. OCHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, OCHA will terminate the family's assistance in accordance with the policies in Chapter 12.

#### **Recently Conducted Income Determinations**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

OCHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to OCHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination OCHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

#### **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, OCHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If OCHA later determines that an ineligible family received assistance, OCHA must take steps to terminate that family from the program in accordance with Chapter 12

#### **23-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION**

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

OCHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If OCHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

#### **23-IV.F. AGE AND DISABILITY VERIFICATION**

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

OCHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to OCHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, OCHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. OCHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If OCHA determines that an ineligible family received assistance, OCHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

**23-IV.G. INCOME TARGETING**

OCHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and OCHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. OCHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

## **PART V: HOUSING SEARCH AND LEASING**

### **23-V.A. INITIAL VOUCHER TERM**

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. OCHA policies on extensions as outlined in Section 5-II.E. will apply.

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless OCHA grants an extension.

### **23-V.B. HOUSING SEARCH ASSISTANCE**

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family

As identified in the MOU between OCHA and the CoC, the Office of Care Coordination will work with the OCHA to identify and contract with service providers to provide housing search assistance, including financial assistance and housing stabilization services using available EHV service fee funds and other funding resources through contracted services providers.

The services provided are to include:

1. Help households identify potentially available units during their housing search.
2. Provide transportation assistance and directions to potential units.
3. Conduct owner/landlord outreach and engagement.
4. Assist with the completion of rental application and OCHA forms.
5. Help to expedite the leasing process for the household.
6. Educate applicants on compliance with rental lease requirements.

### **23-V.C. HOUSING QUALITY STANDARD PRE-INSPECTIONS**

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

To expedite the leasing process, OCHA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a housing quality standard pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, OCHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspection.

### **23-V.D. INITIAL LEASE TERM**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of OCHA policy in Section 9-I.E., Term of Assisted Tenancy.

### **23-V.E. PORTABILITY**

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHV. Exceptions are addressed below.

#### **Nonresident Applicants**

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of OCHA policy in Section 10-II.B.

#### **Billing and Absorption**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

#### **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

In addition to following OCHA policy on briefings in Chapter 5, as part of the briefing packet for EHV families, OCHA will include a written notice that OCHA will assist the family with moves under portability.

#### **Coordination of Services**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

For EHV families who are exercising portability, when OCHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, OCHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

#### **Services Fee**

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV's, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV's, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

#### **Placement Fee/Issuance Reporting Fee**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

## 23-V.F. PAYMENT STANDARDS

### Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, OCHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If OCHA is increasing the regular HCV payment standard, OCHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if OCHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
- The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.
- OCHA may establish a higher payment standard amount for EHV. The need for a higher payment standard amount for EHV will be evaluated annually.
- Rent Reasonableness
- All rent reasonableness requirements apply to EHV units, regardless of whether OCHA has established an alternative or exception EHV payment standard.

### Increases in Payment Standards

The requirement that OCHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to EHV. OCHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

OCHA will not establish an alternative policy for increases in the payment standard. OCHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

## 23-V.G. TERMINATION OF VOUCHERS

After September 30, 2023, OCHA may not reissue EHV when assistance for an EHV- assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, OCHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV's under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV's that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV's to cease leasing any unleased EHV's if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

## **PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS**

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes.

EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts, or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV in accordance with the HCV program requirements at 24 CFR 982.158.

## Glossary

### ACRONYMS USED IN SUBSIDIZED HOUSING

<b>AAF</b>	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
<b>ACC</b>	Annual contributions contract
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HAP</b>	Housing assistance payment
<b>HCV</b>	Housing choice voucher
<b>HQS</b>	Housing quality standards.
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<b>IG</b>	(HUD Office of) Inspector General
<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual Retirement Account
<b>IRS</b>	Internal Revenue Service
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint

<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b>MTCS</b>	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
<b>NOFA</b>	Notice of funding availability
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan for Achieving Self-Support
<b>PHA</b>	Public housing agency
<b>PHRA</b>	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
<b>PIC</b>	PIH Information Center
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PS</b>	Payment standard
<b>QC</b>	Quality control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>TANF</b>	Temporary assistance for needy families
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Reauthorization Act

## GLOSSARY OF SUBSIDIZED HOUSING TERMS

### ***Abatement***

Stopping HAP payments to an owner with no potential for retroactive payment.

### ***Absorption***

In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

### ***Accessible***

The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

### ***Adjusted Income***

Annual income, less allowable HUD deductions

### ***Adjusted Annual Income***

Same as Adjusted Income.

### ***Administrative fee***

Fee paid by HUD to the PHA for administration of the program. See §982.152.

### ***Administrative fee reserve (formerly “operating reserve”)***

Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

### ***Administrative plan***

The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

### ***Admission***

The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

### ***Affiliated individual***

With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

### ***Amortization payment***

In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

### ***Annual contributions contract (ACC)***

The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the

program.

***Annual Income***

Prior to implementation of HOTMA 102/104, the anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations. Upon implementation of HOTMA 102/104, all amounts not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household, spouse or cohead, plus unearned income by or on behalf of each dependent who is under 18 years of age.

***Applicant (applicant family)***

A family that has applied for admission to a program but is not yet a participant in the program.

***Area Exception Rent***

An amount that exceeds the published FMR. See §982.504(b).

***“As-paid” States***

States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets***

(See Net Family Assets.)

***Authorized voucher units***

The number of units for which a PHA is authorized to make assistance payments to owners under its annual contributions contract.

***Auxiliary aids***

Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

***Bifurcate***

With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

***Budget authority***

An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

***Building***

A structure with a roof and walls that contains one or more dwelling units.

***Child***

A member of the family other than the family head or spouse who is under 18 years of age.

***Childcare expenses***

Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is

necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

***Citizen***

A citizen or national of the United States.

***Co-head***

An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

***Common space***

In shared housing: Space available for use by the assisted family and other occupants of the unit.

***Computer match***

The automated comparison of data bases containing records about individuals.

***Confirmatory review***

An on-site review performed by HUD to verify the management performance of a PHA.

***Consent form***

Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

***Congregate housing***

Housing for elderly persons or persons with disabilities that meets the housing quality standard for congregate housing. A special housing type: see §982.606 to §982.609.

***Contiguous MSA***

In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

***Continuously assisted***

An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

***Contract***

(See Housing Assistance Payments Contract.)

***Contract authority***

The maximum annual payment by HUD to a PHA for a funding increment.

***Cooperative (term includes mutual housing)***

Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

***Covered families***

Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

***Dating violence***

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

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

***Day Laborer***

An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

***De minimis error***

An error that results in a difference in the determination of a family's adjusted income of \$30 or less per month.

***Dependent***

A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

***Dependent child***

In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent as specified above.

***Disability assistance expenses***

Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family***

A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

***Disabled person***

See Person with Disabilities.

***Disallowance***

Exclusion from annual income.

***Displaced family***

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

***Domestic violence***

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

***Domicile***

The legal residence of the household head or spouse as determined in accordance with State and local law.

***Drug-related criminal activity***

As defined in 42 U.S.C. 1437f(f)(5).

***Drug-trafficking***

The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

***Earned income***

Upon implementation of HOTMA 102/104, income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

***Economic abuse***

Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

***Economic Self-Sufficiency Program***

Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare,

financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

***Elderly family***

A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly Person***

An individual who is at least 62 years of age.

***Eligible Family (Family)***

A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

***Employer Identification Number (EIN)***

The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status***

The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

***Extremely Low-Income Family***

A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

***Facility***

All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

***Fair Housing Act***

means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

***Fair market rent (FMR)***

The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. In the HCV program, the FMR may be established at the ZIP code level (see definition of Small Area Fair Market Rents), metropolitan area level, or nonmetropolitan county level.

***Family***

Includes but is not limited to the following, and can be further defined in PHA policy.

Family includes a single person who may be:

- An elderly person, displaced person, disabled person, near-elderly person, or any other single person
- Upon PHA implementation of HOTMA 102/104, an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

Family also includes a group of persons residing together, and such group includes, but is not limited to:

- A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- An elderly family;
- A near-elderly family;
- A disabled family;
- A displaced family; and
- The remaining member of a tenant family.

***Family rent to owner***

In the voucher program, the portion of rent to owner paid by the family.

***Family self-sufficiency program (FSS program)***

The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

***Family share***

The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

***Family unit size***

The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

***Federal agency***

A department of the executive branch of the Federal Government.

***Foster adult***

A member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

***Foster child***

A member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

***Foster Childcare Payment***

Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

***Full-time Student***

A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

***Funding increment***

Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

***Gender identity***

Actual or perceived gender-related characteristics.

***Gross rent***

The sum of the rent to owner plus any utility allowance.

***Group home***

A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

***Handicap***

Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

***Handicap Assistance Expense***

See “Disability Assistance Expense.”

***HAP contract***

Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

***Head of household***

The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

***Health and medical care expenses***

Any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

***Household***

A household includes additional people other than the family who, with the PHA’s permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

***Housing assistance payment***

The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family’s lease; and (2) An additional payment to the family if the

total assistance payment exceeds the rent to owner.

***Housing agency (HA)***

A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

***Housing Quality Standards***

The HUD minimum quality standards for housing assisted under the voucher program.

***HUD***

The Department of Housing and Urban Development.

***Human trafficking***

A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

***Immediate family member***

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

***Imputed Asset***

Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

***Imputed Income***

HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

***Imputed welfare income***

An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family’s annual income and therefore reflected in the family’s rental contribution.

***Income***

Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

***Income for Eligibility***

Annual Income.

***Independent contractor***

An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

***Independent entity***

The unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or a HUD-approved entity that is autonomous and recognized under state law as a separate legal entity from the PHA. The entity must not be connected financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.

***Individual with handicaps***

Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

***Inflationary index***

An index based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) used to make annual adjustments to the deduction for elderly disabled families, the cap for imputing returns on assets, the restriction on net family assets, the amount of net assets the PHA may determine based on self-certification by the family, and the dependent deduction.

***Initial PHA***

In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

***Initial payment standard***

The payment standard at the beginning of the HAP contract term. Initial rent to owner.

The rent to owner at the beginning of the HAP contract term.

***Initial rent to owner***

The rent to owner at the beginning of the HAP contract term.

***Inside***

Under NSPIRE, the inside of HUD housing (or “inside areas”) refers to the common areas and building systems that can be generally found within the building interior and are not inside a unit. Examples of “inside” common areas may include, basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas. Examples of building systems include those components that provide domestic water such as pipes, electricity, elevators, emergency power, fire protection, HVAC, and sanitary services.

***Institution of higher education***

An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

***Jurisdiction***

The area in which the PHA has authority under State and local law to administer the program.

***Landlord***

Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

***Lease***

A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

***Life-threatening deficiency***

Under NSPIRE, the life-threatening category includes deficiencies that, if evident in the home or on the property, present a high risk of death or severe illness or injury to a resident.

***Live-in aide***

A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

***Local Preference***

A preference used by the PHA to select among applicant families.

***Low deficiency***

Under NSPIRE, deficiencies critical to habitability but not presenting a substantive health or safety risk to resident.

***Low Income Family***

A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

***Manufactured home***

A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the housing quality standard. A special housing type: see §982.620 and §982.621.

***Manufactured home space***

In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See

§982.622 to §982.624.

***Medical expenses***

Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

***Minor***

A member of the family household other than the family head or spouse, who is under 18 years of age.

***Mixed family***

A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

***Moderate deficiency***

Under NSPIRE, this includes deficiencies that, if evident in the home or on the property, present a moderate risk of an adverse medical event requiring a healthcare visit; cause temporary harm; or if left untreated, cause or worsen a chronic condition that may have long-lasting adverse health effects; or that the physical security or safety of a resident or their property could be compromised.

***Monthly adjusted income***

One twelfth of adjusted income.

***Monthly income***

One twelfth of annual income.

***Mutual housing***

Included in the definition of “cooperative.”

***National***

A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

***National Standards for the Physical Inspection of Real Estate (NSPIRE)***

HUD’s housing inspection approach. NSPIRE is a single inspection standard for all units under the Public Housing, HCV, Multifamily, and Community Planning and Development (CPD) programs. NSPIRE’s focus is on the areas that impact residents the most, such as the dwelling unit.

***Near-elderly family***

A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

***Net family assets***

(1) Prior to implementation of HOTMA 102/104, net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property

such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.
- Upon implementation of HOTMA 102/104, the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

#### ***Noncitizen***

A person who is neither a citizen nor national of the United States.

#### ***Notice of Funding Availability (NOFA)***

For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

#### ***Office of General Counsel (OGC)***

The General Counsel of HUD.

#### ***Outside***

Under NSPIRE, outside of HUD housing (or “outside areas”) refers to the building site, building exterior components, and any building systems located outside of the building or unit. Examples of “outside” components may include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways. Components found on the exterior of the building are also considered outside areas, and examples may include doors, attached porches, attached patios, balconies, car ports, fire

escapes, foundations, lighting, roofs, walls, and windows.

***Overcrowded***

A unit that does not have at least one bedroom or living/sleeping room for each two persons.

***Owner***

Any person or entity with the legal right to lease or sublease a unit to a participant. PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

***PHA Plan***

The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

***PHA's quality control sample***

An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

***Participant (participant family)***

A family that has been admitted to the PHA program and is currently assisted in the program.

The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

***Payment standard***

The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

***Persons with Disabilities***

A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

***Portability***

Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

***Premises***

The building or complex in which the dwelling unit is located, including common areas and grounds.

***Private space***

In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

***Processing entity***

The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”

***Project owner***

The person or entity that owns the housing project containing the assisted dwelling unit.

***Public Assistance***

Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

***Public Housing Agency (PHA)***

Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

***Qualified census tract***

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

***Real property***

Real property has the same meaning as that provided under the law of the state in which the property is located.

***Reasonable rent***

A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

***Reasonable accommodation***

A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA’s programs or services.

***Receiving PHA***

In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

***Recertification***

Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

***Remaining Member of Tenant Family***

Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

***Rent to Owner***

The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and

utilities that the owner is required to provide and pay for.

***Request for Tenancy Approval (RTA)***

A form (Form HUD-52517) submitted by or on behalf of a family to a PHA once the family has identified a unit that it wishes to rent using tenant-based voucher assistance.

***Residency Preference***

A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

***Residency Preference Area***

The specified area where families must reside to qualify for a residency preference.

***Responsible entity***

For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

***Secretary***

The Secretary of Housing and Urban Development. Section

***Section 8***

Section 8 of the United States Housing Act of 1937.

***Section 8 covered programs***

All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

***Section 8 Management Assessment Program (SEMAP)***

A system used by HUD to measure PHA performance in key Section 8 program areas. See 24 CFR Part 985.

***Section 214***

Section 214 of the Housing and Community Development Act of 1980, as amended

***Section 214 covered programs***

The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

***Security Deposit***

A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

***Seasonal worker***

An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

***Set-up charges***

In a manufactured home space rental: Charges payable by the family for assembling, skirting

and anchoring the manufactured home.

***Severe deficiency***

Under NSPIRE, the severe category includes deficiencies that, if evident in the home or on the property, present a high risk of permanent disability, or serious injury or illness, to a resident; or the physical security or safety of a resident or their property would be seriously compromised.

***Sexual assault***

Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

***Sexual orientation***

Homosexuality, heterosexuality or bisexuality.

***Shared housing***

A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

***Single Person***

A person living alone or intending to live alone.

***Single room occupancy housing (SRO)***

A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

***Small Area Fair Market Rents (SAFMRs)***

FMRs established for ZIP code areas.

***Social Security Number (SSN)***

The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

***Special admission***

Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

***Special housing types***

See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

***Specified Welfare Benefit Reduction***

Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

***Spouse***

The marriage partner of the head of household.

***Stalking***

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

***State Wage Information Collection Agency (SWICA)***

The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

***Subsidy standards***

Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

***Suspension***

Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called "tolling".

***Tax credit rent***

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

***Technological abuse***

An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

***Tenancy addendum***

For the Housing Choice Voucher Program, the lease language required by HUD in the lease

between the tenant and the owner.

***Tenant***

The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

***Tenant-paid utilities***

Utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that complies with housing quality standard. The utilities and services may also include those required by HUD through a Federal Register notice after providing opportunity for public comment.

***Tenant rent to owner***

See "Family rent to owner".

***Term of Lease***

The amount of time a tenant agrees in writing to live in a dwelling unit.

***Total Tenant Payment (TTP)***

The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

***Unearned income***

Upon implementation of HOTMA 102/104, any annual income, as calculated under 24 CFR 5.609, that is not earned income.

***Unit***

Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

***Utility allowance***

If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy- conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

***Utility reimbursement***

In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

***Utility hook-up charge***

In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

***Vacancy Loss Payments***

(Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to

advertise the unit, and does not reject any eligible applicant except for good cause.

***Very Low-Income Family***

A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

***Veteran***

A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

***Violence Against Women Act (VAWA)***

Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

***Violent criminal activity***

Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

***Voucher (Housing Choice Voucher)***

A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

***Voucher holder***

A family holding a voucher with an unexpired term (search time).

***Voucher program***

The housing choice voucher program.

***Waiting list admission***

An admission from the PHA waiting list.

***Welfare assistance***

Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

***Welfare-to-work (WTW) family***

A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

***Withholding***

Stopping HAP payments to an owner while holding them for potential retroactive disbursement.