
Orange County Housing Authority



ADMINISTRATIVE PLAN

HOUSING CHOICE VOUCHER PROGRAM

Approved 12-12-2017

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County of Orange

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Introduction

ABOUT THE REFERENCES CITED IN THE ADMINISTRATIVE PLAN

AUTHORITIES IN THE ADMINISTRATIVE PLAN

Authority for OCHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs OCHA policy. State law will be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to OCHA policy.

HUD

HUD provides the primary source of OCHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides non-mandatory guidance to OCHA through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for OCHA policy. Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, OCHA will comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, OCHA will follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support OCHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

The administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the administrative plan or that may be helpful.

Abbreviations

Throughout the administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

Resources and Where to Find Them

Following is a list of resources helpful to OCHA or referenced in the administrative plan, and the online location of each.

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf
Executive Order 11063 http://www.hud.gov/offices/ftheo/FHLaws/EXO11063.cfm

Federal Register http://www.access.gpo.gov/su_docs/aces/fr-cont.html
General Income and Rent Determination FAQs www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001 www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD-50058 Instruction Booklet http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf
Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 http://www.hudclips.org/sub_nonhud/cgi/pdf/31267.pdf
OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010
Project-Based Voucher Program; Final Rule http://www.hudclips.org/sub_nonhud/cgi/pdf/20035.pdf
Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions. www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm
Verification FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm
Verification Guidance, March 2004 (attachment to Notice PIH 2004-1) http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf

The HUD Web site is <http://www.hud.gov/index.html>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips Web site:
<http://www.hud.gov/offices/adm/hudclips/>.

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION:

The Orange County Housing Authority (OCHA) is a public housing agency (PHA) which receives funding from the Department of Housing and Urban Development (HUD) to administer the Housing Choice Voucher (HCV) program. OCHA is not a federal department or agency, but is a governmental body authorized by state law to develop and operate housing and housing programs for low-income families. OCHA must insure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to insure consistency in program operation.

This chapter contains three parts:

Part I: OCHA's Organizational Structure

Part II: OCHA's Mission Statement and Commitment to Ethics and Service

Part III: The HCV Program Administrative Plan

PART 1: OCHA'S ORGANIZATIONAL STRUCTURE

1-I.A. OVERVIEW:

The Department of Housing and Urban Development (HUD) designated the Orange County Housing Authority (OCHA) as a public housing agency in 1971, and authorized OCHA to provide Section 8 rental assistance for low-income families, which includes families with children, the elderly, and people with disabilities, residing within the thirty-one cities and unincorporated areas of Orange County, excluding the cities of Santa Ana, Garden Grove and Anaheim.

1-I.B. OCHA'S ORGANIZATIONAL STRUCTURE:

The officials of OCHA are the Board of Commissioners, which are appointed in accordance with state housing law. The Orange County Board of Supervisors acts as the Board of Commissioners of OCHA and the Housing and Community Development (H&CD) Commission is the advisory board for general policy direction and oversight of housing related issues. This 11-member H&CD Commission includes two Housing Choice Voucher Program participants, five appointees by the Board of Supervisors, two representatives from the League of California Cities, and two members-at-large.

OCHA is a separate legal entity, established under California Health & Safety Code section 34200, and is housed (organized, kept) within the organizational structure of Orange County Community Resources (OCCR) and Orange County Community Services (OCCS). The Director of OCCS is the Executive Director of OCHA. OCHA is staffed as the Housing Assistance Division of OCCR and OCCS and is divided into four Sections under the direction of a Division Manager:

- 1) Occupancy/Residency Section: Coordinates all phases of OCHA's waiting list including, initial opening, verification of preference status, processing initial eligibility, conducting program briefings and the issuance of a new Housing Choice Voucher (HCV). Performs all annual HUD required activities that include annual re-certification and processing interim re-examinations for reported changes.
- 2) Rental Assistance Section: Performs all HUD required HCV leasing activities, which will culminate in moving an assisted family into safe, sanitary and decent rental housing. Field staff is responsible for owner outreach, resolving tenant/owner disputes, negotiation of rents, conducting inspections of assisted units and preparation and processing of a Lease/HAP Contract to generate monthly rental payments to owners.
- 3) Special Housing Programs (SHP) Section: Implements and administers specialized HUD programs and functions, including, but not limited to: Family Self Sufficiency, Family Unification, Veteran Affairs Supportive Housing, and Non-Elderly Disabled Housing. Performs HUD required eligibility and leasing activity.
- 4) Administration Section: Manages operational functions, administers the Shelter Plus Care program, and oversees program integrity. This includes, but is not limited to preparing funding applications, annual reports, updating the Administrative Plan and Annual/Five year Plans, coordination and oversight of informal hearings, monitoring of investigations and ensuring appropriate action for program abuse.

OCHA is supported by administrative staff within OCCR/OCCS, which includes accounting services, investigative services for fraud conducted by the Orange County District Attorney's Office, and computer services provided by Information & Technology staff.

PART II: OCHA'S MISSION AND COMMITMENT TO ETHICS AND SERVICE

1-II.A. OCHA'S MISSION:

OCHA's mission is to provide safe, decent, and sanitary housing conditions for very low-income families and to manage resources efficiently. OCHA will promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.

1-II.B. OCHA'S PROGRAMS

OCHA's Administrative Plan is applicable to the operation of the HCV program and in the administration of assistance for Shelter + Care, Family Self-Sufficiency, Family Unification, Portability and Mobility.

1-II.C. OCHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, OCHA is committed to providing excellent service to HCV program participants – families and owners – in the community. OCHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing, in compliance with program Housing Quality Standards (HQS), for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational and other service needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program, which maintains quality service and integrity while providing an incentive to private owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing OCHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.

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- Administer an efficient, high-performing agency through continuous improvement of OCHA's support systems and commitment to our employees and their development.

OCHA will make every effort to keep program participants informed of the HCV program rules and regulations, and to advise participants of how the program rules affect them.

PART III: THE HCV ADMINISTRATIVE PLAN

1.III.A. OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in OCHA's agency plan. This administrative plan is a supporting document to OCHA's agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define OCHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

OCHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of OCHA staff shall be in compliance with OCHA personnel policy and HUD's Section 8 regulations, as well as, all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN (24 CFR 982.54)

HUD regulations contain a list of what must be included in the administrative plan. OCHA's administrative plan must cover OCHA policy on these subjects:

- Selection and admission of applicants from OCHA's waiting list, including any OCHA admission preferences, procedures for removing applicant's names from the waiting list, and procedures for closing and reopening the wait list (Chapter 4).
- Issuing or denying vouchers, including OCHA policy governing the voucher term and any extensions or suspensions of voucher term. "Suspension" means stopping the clock on the term of a family's voucher after the family submits a request for approval of tenancy. If OCHA allows extensions or suspensions of voucher term, the administrative plan must describe how OCHA determines whether to grant extensions or suspensions, and how the length of any extension or suspension is determined (Chapter 5).
- Any special rules for use of available funds when HUD provides funding to OCHA for a special purpose (e.g. desegregation), including funding for specific families or a specified category of families (Chapter 4).
- Occupancy policies, including definition of what group of persons may qualify as a "family", definition of when a family is considered to be "continuously assisted"; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12).
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13).

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- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2).
 - Providing information about a family to prospective owners (Chapter 3 and 9).
 - Disapproval of owners (Chapter 13).
 - Subsidy standards (Chapter 5).
 - Family absence from the dwelling unit (Chapter 12).
 - How to determine who remains in the program if a family breaks up (Chapter 3).
 - Informal review procedures for applicants (Chapter 16).
 - Informal hearing procedures for participants (Chapter 16).
 - The process for establishing and revising voucher payment standards (Chapter 16).
 - The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8).
 - Special policies concerning special housing types in the program (e.g. use of shared housing) (Chapter 15).
 - Policies concerning payment by a family to OCHA for amounts the family owes (Chapter 16).
 - Interim re-determination of family income and composition (Chapter 11).
 - Restrictions, if any, on the number of moves by a participant family (Chapter 10).
 - Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16).
 - Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8).
 - OCHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

HUD expects OCHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies OCHA has adopted. OCHA's administrative plan is the foundation of those policies and procedures. HUD directives require OCHA to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance provides OCHA with a "safe harbor". HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If OCHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements.

1-III.C. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General program Requirements.

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- 24 CFR Part 8: Nondiscrimination.
 - 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program.

1-III.D. ORGANIZATION OF THE PLAN

The plan is organized to provide information to users in particular areas of operation.

1-III.E. UPDATING AND REVISING THE PLAN

OCHA will review the plan at least once a year, and update it if needed to reflect changes in regulations, OCHA operations, or to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

This chapter is divided into three parts and describes HUD regulations and OCHA policies related to:

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

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the HCV program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of OCHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require OCHA to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. OCHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964.
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988).
- Executive Order 11063.
- Section 504 of the Rehabilitation Act of 1973.
- The Age Discrimination Act of 1975.
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern).
- Violence Against Women Reauthorization Act of 2005 (VAWA).
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

2-I.B. NONDISCRIMINATION

OCHA will not discriminate on the basis of marital status or sexual orientation.

OCHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program.
- Provide housing that is different from that provided to others.
- Subject anyone to segregation or disparate treatment.
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program.
- Treat a person differently in determining eligibility or other requirements for admission.
- Steer an applicant or participant toward or away from a particular area based any of these factors.
- Deny anyone access to the same level of services.

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- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.
 - Discriminate in the provision of residential real estate transactions.
 - Discriminate against someone because they are related to or associated with a member of a protected class.
 - Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

OCHA will take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, OCHA will provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints (24CFR 982.304)

Applicants or participants who believe that they have been subject to unlawful discrimination may notify OCHA either orally or in writing.

OCHA will attempt to remedy discrimination complaints made against OCHA.

OCHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

OCHA will inform all applicants and participants if they require any type of accommodations, in writing, on all appointment documents, and notices of adverse action by OCHA, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact OCHA.”

The documents will specify the name and phone number of the contact person.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

When needed, OCHA will modify normal procedures to accommodate the needs of a person with disabilities.

OCHA will approve an increase in payment standard up to 110% of fair market rent (FMR) as a reasonable accommodation upon written verification from a qualified medical professional that the specific unit will better accommodate the person’s particular disability(s), thus allowing the disabled person to live more independently.

Elderly and/or disabled individuals may elect to form a shared housing mutually assisted family under reasonable accommodation, and can be issued a voucher for the appropriate bedroom size to allow such expanded families to share a housing unit. Such families need to have vouchers which have been issued to each member of the proposed mutually assisted family. They must submit their request to form a mutually assisted family in writing to OCHA and state the reasons or benefits that they believe would provide for reasonable accommodation.

If approved by OCHA, a mutually assisted family will be recognized and one head-of-household will be designated. The other member(s) of the mutually assisted family will surrender their voucher(s) and the file will be noted accordingly. If the mutually assisted family breaks apart in the future, each member who surrendered their original voucher will be issued a new voucher.

2-II.C. REQUEST FOR AN ACCOMMODATION

OCHA will encourage a family to make its request in writing using a reasonable accommodation request form. However, OCHA will consider an accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability, which is used for waiting list preferences and income allowances.

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

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

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability will provide acceptable verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- OCHA will request only information that is necessary to evaluate the disability-related need for the accommodation. OCHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that OCHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, OCHA will dispose of it. In place of the information, OCHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

Requests for accommodations will be assessed on a case-by-case basis, taking into account factors such as the overall size of OCHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

After a request for an accommodation is presented, OCHA will respond, in writing, within 15 calendar days.

If OCHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of OCHA's operations), OCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If OCHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, OCHA will notify the family, in writing, of its determination within 15 calendar days from the date of the most recent discussion or communication with the family.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS (24 CFR 8.6)

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display/teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with OCHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

OCHA policies concerning physical accessibility will be readily available to applicants and participants upon request. When issuing a voucher to a family that includes an individual with disabilities, OCHA will include a current list of available accessible units known to OCHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

OCHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, they will be informed of OCHA's informal review process and their right to request reasonable accommodations to participate in the process.

When a participant family's assistance is terminated, they will be informed of OCHA's informal hearing process and their right to request reasonable accommodation to participate in the process.

When reviewing reasonable accommodation requests, OCHA will consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to OCHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, OCHA will make the accommodation.

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

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

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

2-III.B. ORAL INTERPRETATION

OCHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, OCHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, OCHA will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by OCHA. The interpreter may be a family member or friend.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR PARTS 8.3 AND 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual.
- Has a record of such impairment.
- Is regarded as having such impairment.

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as OCHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug (including medical marijuana) users.
- People whose alcohol use interferes with the rights of others.
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program.

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
 - Qualify as a family as defined by HUD and OCHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for family members as required.
 - Consent to OCHA's collection and use of family information as provided for in OCHA-provided consent forms.
- OCHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or OCHA.

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause OCHA to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(C), HUD-50058 IB, P. 13]

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

Family

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. OCHA has the discretion to determine if any other group of persons qualifies as a family.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together for at least the previous 12 months or certify that each individual's income and other resources will be available to meet the needs of the family.

A family also includes two or more persons with disabilities in cases where individual circumstances justify reasonable accommodation, as verified in writing by a licensed medical professional or professional directly associated with the case (e.g. caseworker, social worker, independent or supported living agency).

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes within 15 days of the change.

With the exception of marriage, and children who join the family as a result of birth, adoption, or court-awarded custody, members added to the household for the application must reside with the Head-of-Household for a minimum of 12 months prior to the date of the initial eligibility interview to be considered a part of the household.

Household

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

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

- When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

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- If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.
 - In the absence of a judicial decision, or an agreement among the original family members, OCHA will determine which family will retain their placement on the waiting list or will continue to be assisted. There is a strong presumption in favor of whomever first held Head of Household status. However, in making a determination, OCHA may consider the following factors:
 - The interest of any minor children, including custody arrangements
 - The interest of any ill, elderly, or disabled family members
 - The interest of any family member who is the victim of domestic violence, dating violence, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse;
 - Any possible risks to family members as a result of criminal activity
 - The recommendations of social service professionals

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

A remaining member must have been a family member for a minimum of 180 days (6 months) before assuming status as Head of Household.

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(B)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

A person must be a member of a household for a minimum of 180 days (6 months) before the current head of household can authorize a change to the pre-application that designates the person as the new head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead. Minors who are emancipated under state law may be designated as a cohead.

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

3-I.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, OCHA will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, P. 5-29]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction, and (2) the earned income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 AND 5.403]

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

OCHA will make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent.

A guest can remain in the assisted unit no longer than 15 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 60 consecutive days). An exception will not be made unless the family can provide documentation of the medical need, and identify and provide documentation of the residence to which the guest will return.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

Definitions of Temporarily and Permanently Absent

Generally an individual who is or is expected to be absent from the assisted unit for 60 days or less in any 12-month period is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 60 days in any 12-month period is considered permanently absent and no longer a family member. The 60 days specified in this section will begin on the date the change was reported or when the individual left the unit, whichever is earlier. Exceptions to this general policy are discussed below.

Absent Students

A student (other than husband or wife) who attends school less than 150 miles away from home but who lives with the family during school recesses may be considered permanently absent (income not counted, not on rental agreement, not counted for voucher size) or temporarily absent (income counted, on rental agreement, counted for voucher size) at the family's option. A student who lives more than 150 miles from home will be determined permanently absent.

Military Leave

An adult child in the military living outside the household will be determined permanently absent.

Absences Due to Placement in Foster Care [24 CFR 5.403]

If a child has been placed in foster care, OCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, or that the child will be out of the home for more than 180 days, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

A spouse or adult member who leaves the household for less than 60 days will be considered temporarily absent unless documentation is provided by the family to verify permanent absence.

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

OCHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent up to a maximum of 180 days. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

If the sole member of the household leaves the household for more than 60 consecutive days, the unit will not be considered to be their principal place of residence and the housing assistance payment for the unit will be terminated unless the participant requests an extension by submitting

documentation from a knowledgeable medical source that they will return within a maximum of 180 days.

Return of Permanently Absent Family Members

The family must request OCHA approval for the return of any adult family members that OCHA has determined to be permanently absent. Generally, if the absence is more than two years, the request will not be approved. If the member is returning from military absence or college, the request will be considered. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

Minors and college students who were part of the family, but who now live away from home during the school year and are not considered members of the household, may visit for up to 150 days per 12 (twelve) month period without being considered a member of the household as long as they have written permission of the owner or manager.

3-I.M. LIVE-IN AIDES

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. Verification must include the type of accommodation that is needed and how it relates to a disability, and why a daily in-home worker would not be a reasonable alternative. For continued approval, the family may be required to submit a new written request, subject to OCHA verification, at each annual reexamination if the need is not permanent.

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

OCHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The person commits drug-related criminal activity (including medical marijuana) or violent criminal activity.
- The person currently owes rent or other amounts to OCHA or to another OCHA in connection with Section 8 or public housing assistance under the 1937 Act.

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- The person has been a family member in the assisted unit within the last two years.

Within 15 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, OCHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the housing choice voucher program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A *very low-income* family.
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4].
- OCHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by OCHA.
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101.
- OCHA has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR 982.201]

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

attract or retain an adequate number of qualified extremely low-income families on the waiting list.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, SUBPART E]

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

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

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

Family members who declare citizenship or national status will be required to provide additional documentation as provided in Chapter 7 of this plan.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with OCHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance. If documentation expires during continued occupancy, OCHA will require updated verification of eligible immigration status.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. OCHA is not required to verify a family member's ineligible status and is not required to report an individual's

unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

OCHA will not provide assistance to a family before the verification of at least one family member. [24 CFR 5.512(a)(b)].

When OCHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 15 calendar days of the determination. This notice will contain instructions for requesting an informal hearing.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the assisted family, OCHA will verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

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

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

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND 5.218, NOTICE PIH 2010-3]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as

of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

OCHA will deny assistance to an applicant family if they do not meet the SSN disclosure, and documentation requirements contained in 24 CFR 5.216.

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

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

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 AND FR NOTICE 4/10/06]

Section 327 of Public Law 109-115 and the regulation at 24 CFR 5.612 established restrictions on the eligibility of certain students (both part-time and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility will be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with OCHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

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

Definitions:

Dependent Child

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

Independent Student

OCHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.
 - To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:
 - Be at least 24 years old by December 31 of the award year for which aid is sought.
 - Be an orphan or a ward of the court through the age of 18.
 - Be a veteran of the U.S. Armed Forces.
 - Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
 - Be a graduate or professional student.
 - Be married.
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

OCHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education

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

Parents

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

Person with Disabilities

OCHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

Veteran

A *veteran* is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, OCHA will determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, OCHA will ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

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

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program.
- Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section.
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

If OCHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, OCHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

Determining Parental Income Eligibility

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

- If the student's parents are married and living together, OCHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, OCHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, OCHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, OCHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. OCHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

3-II.F. CHANGES BETWEEN FINAL ELIGIBILITY DETERMINATION AND EXECUTED CONTRACT DATE

- Changes that occur during the period between final eligibility and the executed HAP contract date may affect eligibility.
- If an applicant is determined not to be income eligible at the initial eligibility interview and subsequently reports a change that would alter this status, the notice and verification of income information must be presented to OCHA within 60 days of the date that applicant was notified of the ineligible status.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, will be denied assistance.

In addition, HUD requires or permits OCHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Denying or withdrawing a voucher.
- Not approving a request for tenancy or refusing to enter into a HAP contract.
- Refusing to process a request for or to provide assistance under portability procedures.

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]

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

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside OCHA's jurisdiction under portability (See Chapter 10).
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Whether the family includes children.
- Whether a family decides to participate in a family self-sufficiency program.
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.).

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(A)]

HUD requires OCHA to deny assistance in the following cases:

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

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- OCHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 5 years for drug-related criminal activity (including medical marijuana), if OCHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by OCHA, or the person who committed the crime, is no longer living in the household.
 - OCHA determines that any household member is currently engaged in the use of illegal drugs (including medical marijuana).

Currently engaged in is defined as any use of illegal drugs (including medical marijuana) within one year of:

- The applicant's initial interview.
- The participant's request to add a new family member.
- The date of notice of termination to the participant.
- OCHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs (including medical marijuana), or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- In determining reasonable cause, OCHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs (including medical marijuana) or the abuse of alcohol. OCHA will also consider evidence from treatment providers or community-based organizations providing services to household members.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, OCHA to deny assistance if OCHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

If any household member is currently engaged in, or has engaged in any of the following criminal activities (except drug usage), within the past five years, the family will be denied assistance. If a family member is currently engaged in, or has engaged in drug usage (including medical marijuana) within the past one year, the family will be denied assistance.

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

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

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

Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of OCHA (including an OCHA employee or an OCHA contractor, subcontractor, or agent).

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

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

- Any conviction for drug-related activity, including medical marijuana, (except drug usage) or violent criminal activity within the past 5 years. Any conviction for drug usage (including medical marijuana) within the past 1 year.
- Any arrests for drug-related activity, including medical marijuana, (except drug usage) or violent criminal activity within the past 5 years. Any arrests for drug usage within the past 1 year.
- Any record of eviction from public or privately owned housing as a result of criminal activity within the past 5 years.

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes OCHA to deny assistance based on the family's previous behavior in assisted housing:

OCHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

OCHA **will** deny assistance to an applicant family if:

- The family does not provide information that OCHA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to OCHA.
- Any family member has been evicted from federally assisted housing in the last 5 years.
- Any PHA has ever terminated assistance under the program due to program violation(s) for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the

lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

- The family has breached the terms of a repayment agreement entered into with any PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward OCHA personnel.

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

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

OCHA may consider not to deny assistance to a family whose previous termination was procedural in nature (i.e. missed appointments) and was more than five years ago.

In making its decision to deny assistance, OCHA will also consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OCHA may, on a case-by-case basis, decide not to deny assistance.

Prohibition Periods for Some Offenses for Applicants and Participants

Lifetime	Indefinitely	Five Years	Five Years cont.	One Year
Program participants and applicants subject to lifetime sex-offender registration under a state sex-offender registration program.	Currently engaging in illegal drug activities including use, production, or sales. Includes medical marijuana.	Previous violent criminal activity.	From date of eviction from any federally-assisted housing for illegal drug activities for personal drug use. (including medical marijuana) (Does not apply with evidence of rehabilitation or absent violator.)	Illegal drug use or possession for personal use (including medical marijuana) unless a family obligation was violated at the same time, then the 5-year prohibition period applies. (One year does not apply if proof of completing rehabilitation program is provided.)
Program participants and applicants convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.	Pattern of abuse, or abuse of alcohol that interferes with the health, safety, or right to peaceful enjoyment of others.	Previous illegal drug activity that involves sales, transportation, manufacture, or possession for sale.	From date of termination of federal assistance for a violation of an important family obligation.	
	Currently engaging in violent criminal activity.	Violent or hostile behavior towards PHA personnel	From date of eviction from federally-assisted housing for lease violations.	

	Actively engaging in other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by others.	Previous other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor, or agent of the PHA.	From date of discovery for having committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
	Actively engaging in other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor, or agent of the PHA.	Previously owed money to any PHA	From the date of the later of the act or termination of assistance for any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by others.
	Owes money or rent to any PHA.		

3-III.D. SCREENING

Screening for Eligibility

OCHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. In order to obtain access to the records, OCHA will require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

OCHA will perform a criminal background check through local law enforcement for every adult household member.

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

Screening for Suitability as a Tenant [24 CFR 982.307]

OCHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

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

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 initial HQS

inspection or before. OCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

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

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

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

OCHA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- In case of domestic violence by a household member who is no longer engaged in such behavior, whether the culpable household member has successfully completed a supervised anger management program or has otherwise been rehabilitated successfully.

OCHA will require the applicant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program, or a supervised anger management program, or evidence of otherwise having been rehabilitated successfully.

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

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

Upon admission to the program, the family must present evidence of the former family member's current address upon OCHA request.

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

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

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, OCHA will determine whether the behavior is related to the disability. If so, upon the family's request, OCHA will determine whether alternative measures are appropriate as a reasonable accommodation. OCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

If OCHA determines that a family is not eligible for the program for any reason, the family will be notified promptly. The notice will describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

The family will be notified of a decision to deny assistance in writing within 15 calendar days of the determination.

If OCHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, the subject has the right to request the criminal report that the decision is based on, and the right to dispute the accuracy or relevance of the criminal record.

[24 CFR 5.903(f) and 5.905(d)]. OCHA will give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, OCHA will notify the family in writing of the denial of admission. If the family does not contact OCHA to dispute the information within a 15 calendar day period, OCHA will finalize the denial of admission.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [24 CFR PART 5, SUBPART L]

The Violence Against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program "on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission.

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

OCHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under OCHA's policies. Therefore, if OCHA makes a determination to deny assistance to an applicant family, OCHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan and will request that an applicant wishing to claim protection under VAWA notify OCHA within 15 calendar days.

Documentation

Victim Documentation [24 CFR 5.2007]

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, OCHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES
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Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
 - Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
 - In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General

The term “developmental disability” means a severe, chronic disability of an individual that:

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has 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.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

<p style="text-align: center;">EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 AND 1002]</p>

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of ‘‘Institution of Higher Education’’ From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ‘‘institution of higher education’’ means an educational institution in any State that

- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- (2) Is legally authorized within such State to provide a program of education beyond secondary education;
- (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
- (4) Is a public or other nonprofit institution; and
- (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ‘‘institution of higher education’’ also includes—

- (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
- (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of “Institution of Higher Education” From 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(2) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(3) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(B) Institutions outside the United States

(2) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

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- (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or
- (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
- (B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—

- (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
- (B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;
- (C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
- (D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;
- (E) Has been in existence for at least 2 years; and
- (F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—

- (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
- (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
- (C) Has been in existence for at least 2 years.

(2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

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

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

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

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, PP. 4-11 – 4-16, NOTICE PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program when the waiting list is open.

OCHA will follow a two-step application process. OCHA initially will require a pre-application form from families to provide only the information needed to determine the family's placement on the waiting list. The family will be required to provide a full application with all of the information necessary to establish preference, and family eligibility and level of assistance when the family is selected from the waiting list. OCHA will include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of OCHA's full application.

Families may obtain pre-application forms as outlined by OCHA in public notices and information given by OCHA at the time that OCHA opens the waiting list. OCHA will provide instructions on how to submit completed pre-applications. Methods for submitting completed pre-applications may include mail, fax, and/or on-line submissions. Pre-applications must be complete in order to be accepted by OCHA for processing. If a pre-application is incomplete, OCHA will attempt to collect additional information required

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

Limited English Proficiency

OCHA will take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a discussion on OCHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

OCHA will review each complete pre-application received and make a preliminary assessment of the family's eligibility. OCHA will accept pre-applications from all families for whom the list is open.

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

Eligible for Placement on the Waiting List

OCHA will send written notification of the preliminary eligibility determination and placement on the waiting list within 15 calendar days of finalizing the pre-application review process. This notification will include an estimated wait time based on the position on the wait list.

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

Applicants will be placed on the waiting list according to any preference(s) for which they claim on the pre-application, and then by random lottery number placement within the preference category.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 AND 205]

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

The waiting list will at minimum contain the following information for each applicant listed:

- Applicant name.
- Family member(s) name(s).
- Family size.
- Date of application.
- Qualification for any local preference.
- Random placement number.
- Racial or ethnic designation of the head of household.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

OCHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months or more for the most current applicants. Where OCHA has particular preferences or funding criteria that require a specific category of family, OCHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

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

OCHA will announce the reopening of the waiting list at least 15 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

OCHA will give public notice by publishing the relevant information in local newspapers of general circulation, minority media, and other suitable media outlets including, but not limited to:

- OCHousing.org.
- City Halls in OCHA jurisdiction.
- OC Public Libraries.
- Non-profit organizations serving low-income populations.
- Press notices.

4-II.D. FAMILY OUTREACH [HCV GB, PP. 4-2 TO 4-4]

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

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

OCHA outreach efforts will comply with fair housing requirements. This includes:

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

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

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

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform OCHA of changes in family composition, income, contact information, including current residence, mailing address, and telephone number within 15 days of the change. The changes must be submitted in writing.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

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

Purging the Waiting List

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

The waiting list will be updated periodically to ensure that all applicants and applicant information is current and accurate.

To update the waiting list, OCHA will send an update request via email and/or first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the email or last address that OCHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by fax or by email as instructed by OCHA. Responses should be postmarked or received by OCHA not later than 15 calendar days from the date of the OCHA letter.

If the family fails to respond within 15 calendar days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 calendar days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, OCHA may reinstate the family if it is determined that the lack of response was due to an OCHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

If at any time an applicant family is on the waiting list, OCHA determines that the family is not eligible for assistance (see Chapter 3); the family will be removed from the waiting list.

If a family is removed from the waiting list because OCHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any

alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding OCHA's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families will be selected for assistance in accordance with the policies described in this part.

OCHA will maintain a clear record of all information required to verify that the family is selected for Special Admission or from the waiting list according to OCHA's selection policies [24 CFR 982.203, 24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units. In these cases, OCHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. OCHA will maintain records showing that such families were admitted with special program funding.

Conversion of Multifamily Apartment Complex (OPT-OUT):

HUD may allocate funding to provide Housing Choice Voucher (HCV) tenant-based rental assistance for families residing in a HUD project-based subsidized multifamily apartment complex to coincide with the expiration of HUD's Subsidy Contract with the owner. Participants are admitted under targeted funding provisions and must meet applicable verification and eligibility requirements. This may also include families residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.

Targeted Funding [24 CFR 982.204(e)]

HUD may award funding for programs that target a specified category of families on the waiting list including populations who have special needs. Eligible applicants must meet specifically defined program requirements and must also be income-eligible for the HCV program. Eligible applicants will first be selected from OCHA's wait list, regardless of their current placement. If there are an insufficient number of qualifying applicants on the waiting list, OCHA will open the wait list to only those families who meet the eligibility requirements of the specific program. To date, OCHA administers the following special programs that have targeted funding:

Rental Assistance for Non-Elderly Disabled Persons (NED)

HUD has partnered with California Department of Health & Human Services (HHS) to provide funding for rental assistance for non-elderly disabled persons to successfully transition out of a nursing home or other health care institution, into the community and receive the supportive services needed to maintain independent living within a safe environment. HHS has designated the Dayle MacIntosh Center (DMC) of Orange County, as the lead supportive service provider, who will be responsible for the selection and referral of eligible candidates.

DMC will refer eligible candidates to OCHA to be admitted to the NED HCV Program under the provision of targeted funding. Participants must meet applicable verification and eligibility requirements.

Family Unification Program: (FUP)

HUD allocated funding to provide Housing Choice Voucher (HCV) tenant-based rental assistance for families for whom the lack of adequate housing is the primary factor in the separation of children from their family and for eligible emancipated youths 18 to 21 years old. Eligible FUP participants are referred to OCHA through the Orange County Social Services Agency (SSA) and are admitted under targeted funding provisions. Participants must meet applicable verification and eligibility requirements.

Disaster Housing Assistance Program: (DHAP)

Resident and nonresident families displaced by a federally declared disaster requiring mandatory evacuation: OCHA may designate Housing Choice Vouchers to be made available for eligible displaced households if funding permits. If the disaster area includes southern California, priority may be given to disaster victims who were residing in OCHA's jurisdiction. OCHA will accept and prioritize the processing of eligibility for households referred through the responsible disaster agency, such as the Federal Emergency Management Agency (FEMA). Participants are admitted under targeted funding provisions and must meet applicable verification and eligibility requirements.

Veterans Affairs Supportive Housing (VASH):

HUD allocated funding to provide Housing Choice Voucher (HCV) tenant-based rental assistance for qualifying homeless veterans referred by the Department of Veterans Affairs. Participants are admitted under targeted funding provisions and must meet applicable verification and eligibility requirements.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

This section describes the method for selecting applicant families from the waiting list, including the system of admission preferences that OCHA will use [24 CFR 982.202(d)].

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

OCHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. OCHA has therefore established local preferences, at its discretion to address local housing needs and objectives. Local preferences established in this Administrative Plan are consistent with the OCHA PHA Plan.

OCHA will apply the following preferences to all pre-applicants, weighted in descending order:

Members

(living or working in OCHA's jurisdiction)

-
1. Homeless Individuals and Families who meet specific eligibility criteria (defined on the following page)
 2. U.S. Veterans – All
 3. Non-Veterans - Elderly, Disabled, or Working Families
 4. Non-Working Families

Non-Members

(not living or working in OCHA's jurisdiction)

5. U.S. Veterans – All
6. Non-Veterans - Elderly, Disabled, or Working Families
7. Non-Working Families

The following is an explanation of OCHA's preference requirements and the priority order for issuance of Housing Choice Vouchers:

Members:

Applicants who live, work, have been hired to work in, or report to an office located in OCHA's jurisdiction.

Non-member applicants who move into or begin working in OCHA's jurisdiction. Applicants in this category will receive member preference status on the date their change report is received in writing.

A member applicant will retain their preference for 60 days from the date they leave OCHA's jurisdiction.

Members placed or admitted to transitional living facilities outside of OCHA's jurisdiction for reasons of health or safety and under the administration of governmental case management will retain their member preference.

Homeless Individuals and Families who meet specific eligibility criteria

In addition to targeted programs to assist over 600 homeless veteran (VASH) households and more than 600 disabled homeless households (Continuum of Care Permanent Supportive Housing Program), OCHA has created a preference to assist homeless persons using regular HCV funding. Under this preference category, OCHA may issue up to 35% of turnover Housing Choice Vouchers annually (currently 210) to households and applicants that qualify under one of the following three categories:

- ***Families Transitioning (moving-up) From Continuum of Care (CoC) Permanent Supportive Housing (PSH) Program projects:***

Up to 50 applicants that are current participants in good standing in OCHA's Continuum of Care Permanent Supportive Housing Program projects who are no longer in need of the level of supportive services provided and have been identified by OCHA's supportive services partner agencies as such.

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- Up to 100 homeless persons and families and/or other persons with special needs, who require supportive services that will be provided in units designated for project-based Vouchers. These Vouchers will be dedicated to the property for ten to 15 years.
 - Up to 60 homeless, or formerly homeless persons and families, transitioning from the Tenant Based Rental Assistance Program or CoC PSH Program projects, referred via the CoC Coordinated Entry System by partner agencies under contract or Memorandum of Understanding with OCHA, and/or other homeless initiatives. The referring agency must certify the homeless or housing status of those referred. Additionally, families already on the waiting list who declare themselves homeless, but not referred by partner agencies, must provide certification from a government organization or other organization that is qualified to determine homelessness or housing status. The number of families who can qualify for this preference will be limited to a number as annually determined by the Housing Authority.

This action is in conformance with recommendations from HUD and local Continuums of Care. In addition, the percentage of Housing Choice Vouchers committed for the homeless is comparable to other Public Housing Authorities in Southern California.

The aforementioned strategy equates to an annual 35% homeless preference percentage. The percentage is based upon the annual turnover of vouchers from households that exit the Housing Choice Voucher Program. Turn over vouchers must be the basis for the methodology since HUD has not issued new Housing Choice Vouchers since the early 2000s. This percentage will provide up to 210 Housing Choice Vouchers per year for permanent housing resources to address homelessness in Orange County.

Should the CoC determine a need for OCHA to increase the annual homeless preference percentage, OCHA, at its discretion may increase the percentage to 50%, if funding is available and program performance support an increase. 50% could equate to approximately 300 vouchers per year. OCHA reserves the right to readjust the targeted number of Vouchers dedicated to each of the above categories based on turnover, funding, business or community needs, not to exceed 50% of all annual turnover Vouchers.

Veterans:

Applicants who are currently serving, or have served in the U. S. armed forces, veterans who have been discharged under conditions other than dishonorable and are eligible to receive veteran benefits or surviving spouses of veterans who have been discharged under conditions other than dishonorable and were eligible to receive veterans benefits. “Surviving spouse” means not divorced from, or not remarried prior to or after the death of the veteran.

Working:

Applicants with earned income from recent employment who meet the following criteria:

Working preference applies only to the head of household, spouse, or sole member.

Must receive earned income, which is defined as salaries and wages, overtime pay, tips, bonuses, self-employment, and any other form of compensation for work performed that can be verified.

Must work at least 20 hours per week for a minimum of 26 weeks in the 12-month period prior to the date of the initial interview appointment.

Length of employment is calculated separately for each individual and cannot be combined with another family member to qualify.

Disabled:

Applicant households whose head, spouse, or sole member is receiving Social Security disability, Supplement Social Security Income disability benefits, or any other payments based on the individual's inability to work.

Must have a verifiable disabled status for at least a 12-month period or more from the date of the initial interview appointment to qualify for the disabled preference.

Elderly:

Applicant households whose head, spouse, or sole member is age 62 or older.

HUD requires that any working preference must also be given to applicant households whose head, spouse, or sole member is receiving Social Security disability, Supplement Social Security Income disability benefits, or any other payments based on the individual's inability to work and to applicant households whose head, spouse, or sole member is age 62 or older.

OCHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.

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

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

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

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

Order of Selection

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with OCHA's hierarchy of preferences. Waiting list applicants will be selected based on the position number assigned by lottery within each preference category.

4-III.D. NOTIFICATION OF SELECTION

OCHA will notify the family by email and/or first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled full application interview, including any procedures for rescheduling the interview.
- Who is required to attend the interview.
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation.
- Documents that must be provided to determine income and assets.
- Other documents and information that should be brought to the interview.

If a notification letter is returned to OCHA with no forwarding address, the family will be removed from the waiting list.

4-III.E. THE APPLICATION INTERVIEW

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if OCHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by OCHA [Notice PIH 2010-3].

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

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

The head of household, the spouse/co-head, and all adult family members age eighteen and older will be required to attend the interview together. Families will be encouraged to not bring minor children to the interview.

The interview will be conducted only if one member of the household certifies legal status. (Chapter 7 provides a discussion of proper documentation of legal identity.)

Pending disclosure and documentation of social security numbers, OCHA will allow the family to retain its place on the waiting list for 60 days. If not all household members have disclosed

their SSNs at the next time OCHA is issuing vouchers, OCHA will issue a voucher to the next eligible applicant family on the waiting list.

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

Any required documents or information that the family is unable to provide at the interview must be provided within 15 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

The family must notify OCHA within 15 calendar days of any changes in the information provided during the eligibility process.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, OCHA will provide translation services in accordance with OCHA's LEP plan (Chapter 2).

If the family is unable to attend a scheduled interview, the family must contact OCHA to request a rescheduled appointment. In this circumstance, OCHA will send another notification letter with a new interview appointment time. If a family does not attend a scheduled interview, it is the family's responsibility to request a rescheduled appointment. Requests to reschedule a missed initial appointment must be made within one (1) year of the original appointment date.

Applicants who fail to attend two scheduled interviews without OCHA approval will be made inactive based on the family's failure to supply information needed to determine eligibility. A notice of inactive status will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

Willfully misrepresented information given by an applicant family in order to qualify for a preference will result in denial of assistance and removal from the waiting list.

If OCHA determines that the family is ineligible, OCHA will send written notification of the ineligibility determination within 15 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for preference criteria that affected the order in which it was selected from the waiting list, the family will be reclassified to the appropriate place on the waiting list. OCHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If OCHA determines that the family is eligible to receive assistance, OCHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

An eligible family will not be placed back on the waiting list except in the case of a medical circumstance that does not allow the family to utilize the voucher when OCHA determines that the family is eligible. In this case, the voucher may be put on medical hold for a period of up to one year upon receipt of appropriate verification of the circumstance within a reasonable timeframe.

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

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

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

5-I.B. BRIEFING [24 CFR 982.301]

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

In most instances briefings will be conducted in group meetings. Individual briefings may be conducted under certain circumstances.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, OCHA may approve another adult family member to attend the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate OCHA staff person.

Briefings will be conducted in English. Applicants are encouraged to bring a translator if necessary.

Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be made inactive and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be notified by email and/or mail of the opportunity to request another briefing within a fifteen calendar day period. If the family requests a rescheduled briefing within the fifteen calendar day period, OCHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without OCHA approval, will be denied assistance (see Chapter 3).

The date of voucher issuance will not change as a result of a rescheduled briefing appointment.

Oral Briefing [24 CFR 982.301(a)]

Each briefing will provide information on the following subjects:

- How the Housing Choice Voucher (HCV) program works.
- Family and owner responsibilities.

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- Where the family can lease a unit, including renting a unit inside or outside OCHA's jurisdiction.
 - For families eligible under portability, an explanation of portability. OCHA will not discourage eligible families from moving under portability.
 - For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and OCHA's policies on any extensions or suspensions of the term. The packet will explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how OCHA determines the payment standard for a family, how OCHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how OCHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside of OCHA's jurisdiction under portability procedures, the information will include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy (RTA), and a description of the procedure for requesting approval for a tenancy.
- A statement of OCHA's policy on providing information about families to prospective owners.
- OCHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of owners or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to OCHA.
- The family obligations under the program.
- The grounds on which OCHA may terminate assistance for a participant family because of family action or failure to act. (See 5-1.C Family Obligations)

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- OCHA informal hearing procedures including when OCHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
 - Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
 - Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
 - An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers.
 - Information about the protections afforded by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, and stalking (see section 16-IX.C)
 - “Is Fraud Worth It?” (*form HUD-1141-OIG*), which explains the types of actions a family must avoid and the penalties for program abuse.
 - “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19.

5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify OCHA of a change, notifying OCHA of the request or change within 15 calendar days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

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

- The head of household (and spouse/co-mate) is responsible for reporting all family member changes in writing within 15 days of the occurrence. Forms to report changes are available at the OCHA office and at www.ochousing.org.
- The head of household (and spouse/co-mate) is responsible for reporting changes and will be required to repay the OCHA any overpayments of assistance made on behalf of the family as a result of not reporting changes that affect the amount of assistance received.
- Changes include increases and/or decreases in any source of income, benefits, child support, self-employment, cash, money received from family or friends, lottery or gambling winnings, loans, lump sums, or any other sources of money. Changes also include the start or end of

employment or job training, and the acquisition or disposal of any assets (bank account, stocks, bonds, real estate, life insurance, etc.).

- The family must report any change in student status (full-time or part-time) or the start or end of school or training programs including those for dependent children 18 years or older.
- The family must report any change related to marriage, divorce, separation, reuniting, or child custody.
- The family must supply any information that OCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status within OCHA prescribed timeframes.
- All adult members age 18 years and older must attend OCHA-scheduled appointments. The family must supply any information requested by OCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition within OCHA prescribed timeframes.
- Any information supplied by the family must be true and complete.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- Damages beyond normal wear and tear will be considered to be damages that could be assessed against the security deposit.
- The family must allow OCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
- OCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.
- Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
- The family must notify OCHA and the owner in writing a minimum of 30 days before moving out of the unit or terminating the lease.
- The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to OCHA at the same time the owner is notified.

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- The family must give OCHA a copy of any owner eviction notice within 15 days of receipt of the notice.
 - The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
 - The composition of the assisted family residing in the unit must be approved by OCHA. The family must notify OCHA in writing within 15 calendar days of the birth, adoption, or court-awarded custody of a child. The family must request OCHA approval to add any other family member as an occupant of the unit.
 - The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. OCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
 - The family must promptly notify OCHA in writing if any family member no longer lives in the unit within 15 days of the move-out.
 - The family must not permit persons who are not a part of the household to use the assisted unit for their mailing address without OCHA approval.
 - The family must abide by the OCHA visitor/guest policy: overnight visitors are allowed for a maximum of 15 consecutive days and cannot exceed a maximum of 30 calendar days in a 12-month period. A written request must be submitted to OCHA for approval for visitor stays that will exceed these limits. While visitors/guests are at the assisted property, the family is responsible for their behavior regardless of whether the family knows of the behavior.

Minors and college students who were part of the family, but who now live away from home during the school year and are not considered members of the household, may visit for up to 150 days per 12 (twelve) month period without being considered a member of the household as long as they have written permission of the owner/manager.

- If OCHA has given approval, a foster child or a live-in aide may reside in the unit. OCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when OCHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment in any form by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by OCHA to verify that the family is living in the unit or information related to family absence from the unit within the OCHA prescribed timeframe.
- The family must provide written notice to OCHA within 15 calendar days of the start of any extended absence from the assisted unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 consecutive calendar days.

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- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
 - The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
 - Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
 - Family members must not engage in drug-related criminal activity (including medical marijuana) or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and OCHA policies related to drug-related and violent criminal activity.
 - Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and OCHA policies related to alcohol abuse.
 - An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
 - A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless OCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]
 - The Orange County District Attorney's Office investigates program abuse. The family must cooperate with District Attorney staff at all times in Housing Authority investigations.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

5-II.B. DETERMINING VOUCHER SIZE [24 CFR 982.402]

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

The following requirements apply when OCHA determines voucher size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the voucher size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by OCHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the voucher size.
- OCHA will assign one bedroom for each two persons within the household, except in the following circumstances:
 - Head of Household (bedroom includes spouse, if applicable).
 - Live-in aides will be allocated a separate bedroom.
 - Single person families will be allocated one bedroom.

OCHA will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	Persons in Household (Minimum – Maximum)
0 Bedroom	1-1
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	4-6
4 Bedrooms	6-8
5 Bedrooms	8-10
6 Bedrooms	10-12

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining voucher size for a particular family, OCHA may grant an exception to its established subsidy standards. Reasons may include, but are not limited to the following:

OCHA will consider granting an exception for health reasons or disability.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger voucher size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional). OCHA may require the family's continued need for an additional bedroom due to special medical equipment or for a live-in aide to be re-verified at annual reexamination and/or inspection.

OCHA will notify the family of its determination within 15 calendar days of receiving the family's request and verification from the doctor or health professional. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

This chapter deals only with voucher issuance for applicants (or as a special admission as described in Chapter 4). For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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

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

Vouchers will be issued to eligible applicants at the mandatory briefing.

Prior to issuing any vouchers, OCHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If OCHA determines that there is insufficient funding after a voucher has been issued, OCHA may rescind the voucher and place the affected family back on the waiting list.

5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

The initial term of the voucher must be stated on the voucher [24 CFR 982.303(a)].

The initial voucher term will be at least 60 calendar days. OCHA may exercise its option to extend the initial voucher term to a maximum of 120 days.

The family must submit a Request for Tenancy Approval (RTA) within the initial time period unless OCHA grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)] [24 CFR 982.54]

OCHA will approve extensions only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by OCHA. Following is a list of extenuating circumstances that OCHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family.
- Other serious family emergency.
- Whether the family has already submitted requests for tenancy approval that were not approved by OCHA.
- Inability to locate a unit that the family can document and OCHA can verify.

OCHA may extend the voucher term up to a maximum of one year for documented medical circumstances described above.

All requests for extensions to the voucher term must be made in writing and submitted to OCHA at least 15 days prior to the expiration date of the voucher (or extended term of the voucher).

Any request for an extension must include the reason(s) an extension is necessary. OCHA will require the family to provide documentation to support the request.

OCHA will decide whether to approve or deny an extension request within 15 calendar days of the date the request is received, and will immediately provide the family written notice of its decision. OCHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

Suspensions of Voucher Term [24 CFR 982.303(c)]

OCHA may suspend the housing choice voucher. “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time OCHA approves or denies the request [24 CFR 982.4]. OCHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

When a Request for Tenancy Approval (RTA) is received by OCHA, the term of the voucher will be suspended while OCHA processes the request.

Expiration of Voucher Term

If an applicant family’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), OCHA will require the family to reapply for assistance when the waiting list is open. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by OCHA, the family may use any remaining time left in the initial period (or approved extension) to locate another unit.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

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

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and OCHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require OCHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and OCHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and OCHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining OCHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

5.609 Annual income.

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

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

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

(3) Which are not specifically excluded in paragraph [5.609(c)].

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

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1).
- Annual Income Exclusions (Exhibit 6-2).
- Treatment of Family Assets (Exhibit 6-3).
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4).
- The Effect of Welfare Benefit Reduction (Exhibit 6-5).

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition and income. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

Generally an individual who is or is expected to be absent from the assisted unit for 60 consecutive days or less in a 12-month period is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days in a 12-month period is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

When someone who has been considered a family member attends school under 150 miles away from home, the person will continue to be considered a family member unless OCHA receives information indicating that the student has established a separate household or the family declares that the student has established a separate household. A family member who attends school over 150 miles away will be considered permanently absent.

Absences Due to Placement in Foster Care

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

If a child has been placed in foster care, OCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

OCHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

During the period of time that the income for the confined person is paid directly to an assisted family member, OCHA will include the income and give the allowable medical deductions on behalf of the confined person up to a maximum of 180 days.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, OCHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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

- If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases OCHA will extend the caretaker's status as an eligible visitor.
- At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

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- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

OCHA is required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24

CFR 5.233(a)(2)]. HUD allows OCHA to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where OCHA does not determine it is necessary to obtain additional third-party data.

When EIV is obtained and the family does not dispute the EIV employer data, OCHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, OCHA will make every effort to obtain current and consecutive pay stubs (at least 4) dated within the last 60 days.

OCHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other EIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If OCHA determines additional information is needed.

In such cases, OCHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how OCHA annualized projected income.

When OCHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), OCHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to OCHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

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

Using Up-Front Income Verification (UIV) to Project Income

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

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

OCHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents. When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date. EIV quarterly wages alone will not be used to project annual income at an annual or interim reexamination.

OCHA will follow “HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available” in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. OCHA defines *substantial difference* as a difference of \$2,400 or more per year.

No Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by less than \$2,400 per year, OCHA will follow these guidelines:

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

Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by \$2,400 or more per year, OCHA will follow these guidelines:

- Discuss the income discrepancy with the tenant and request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or incomes sources.

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- If the tenant is unable to provide acceptable documentation to resolve the income discrepancy, OCHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

For persons who regularly receive bonuses or commissions, OCHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, OCHA will use the prior year amounts. In either case the family may provide, and OCHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions OCHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally, as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a

student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058).
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)).
- Awards under the federal work-study program (20 U.S.C. 1087 uu).
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f)).
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

State and Local Employment Training Programs

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

OCHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

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

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

End of participation in a training program must be reported in accordance with OCHA's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the

economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

OCHA defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

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

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, OCHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her

prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

6-I.F. BUSINESS INCOME [24 CFR 5.609(B)(2)]

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

Business Expenses

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

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

Business Expansion

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

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

Capital Indebtedness

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

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, OCHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(B)(3) AND 24 CFR 5.603(B)]

Overview

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and OCHA policies related to each type of asset.

General Policies

Income from Assets

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

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

Valuing Assets

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

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- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
 - The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, gambling winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3)]

When net family assets are \$5,000 or less, OCHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, OCHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

If an asset is owned by more than one person and any family member has unrestricted access to the asset, OCHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

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

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

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

Minimum Threshold

OCHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. OCHA may verify the value of the assets disposed of if other information available to OCHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*.

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

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

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

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

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

In determining the market value of an investment account, OCHA will use the value of the account on the most recent investment report.

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

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)].
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)].
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25].

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- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
 - Interests in Indian Trust lands [24 CFR 5.603(b)].
 - Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25].

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

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

Trusts

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

Revocable Trusts

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

Nonrevocable Trusts

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

Retirement Accounts

Company Retirement/Pension Accounts

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

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

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

IRA, Keogh, and Similar Retirement Savings Accounts

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

Personal Property

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

In determining the value of personal property held as an investment, OCHA will use the family's estimate of the value. OCHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is questionable. The family must cooperate with the appraiser, but will not be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and gambling or lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

Treatment of Overpayment Deductions from Social Security Benefits

OCHA will make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period,

OCHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

When a delayed-start payment is received and reported during the period in which OCHA is processing an annual reexamination, OCHA will adjust the family share and OCHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with OCHA.

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].
- OCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].

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- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
 - Amounts received under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
 - Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].
Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
 - Lump sums received as a result of delays in processing Social Security and SSI payments see section 6-I.J.) [24 CFR 5.609(b)(4)].
 - Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts. Attorney fees may be deducted from lump-sum payments when computing annual income when the attorney's efforts have recovered a lump-sum compensation for the wrongful reduction or denial of a periodic payment, and the recovery does not include an additional amount in full satisfaction of the attorney fees. [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

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

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

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

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must

participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

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

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

Offsets

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

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(B)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

OCHA will count alimony or child support amounts awarded as part of a divorce or separation agreement.

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

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection. OCHA will verify amounts as provided in Chapter 7-III.D.

Regular Contributions or Gifts

OCHA will count as income regular monetary and non-monetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)]. OCHA defines temporary, nonrecurring, or sporadic as less than three (3) times in a 12-month period.

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

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

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(B)(9)]

In 2005, Congress passed a law (for section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, OCHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance.
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*.
- Students who are over 23 **AND** have at least one dependent child, as defined in Section 3-II.E.
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii))].
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)].
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)].
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)).
 - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058).

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- Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).
 - Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e).
 - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)).
 - Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931)).
 - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04).
 - The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408).
 - Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f)).
 - Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
 - Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721).
 - The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
 - Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)).
 - Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433).
 - Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).
 - Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805).
 - Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such

assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602).

- Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

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

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

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

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

6-II.B. DEPENDENT DEDUCTION

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is

18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “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.”

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

OCHA may consider doctor recommended nonprescription medicines with a specific dosage as a medical expense.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	

	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, OCHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(B) AND 24 CFR 5.611(A)(3)(II)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

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

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

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to

enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

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

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

If the care attendant also provides other services to the family, OCHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

OCHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. A family may present, and OCHA will consider, the family’s justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, OCHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for 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.”

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family’s household are included when determining the family’s childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, OCHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the childcare expense being allowed by OCHA.

Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a

formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full or part-time) for which a family member is compensated.

Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

OCHA will not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, OCHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Childcare Expenses

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

Allowable Childcare Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

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

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, OCHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class. To establish the reasonableness of childcare costs, OCHA will use the schedule of childcare costs from the local welfare agency. Families may present, and OCHA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND OCHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II).
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12).
- A \$50 minimum rent requirement.

OCHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

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

Minimum Rent [24 CFR 5.630]

The minimum rent for the OCHA jurisdiction is \$50.

Family Share [24 CFR 982.305(a)(5)]

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

OCHA Subsidy [24 CFR 982.505(b)]

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

Utility Reimbursement [24 CFR 982.514(b)]

When the OCHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits OCHA to pay the reimbursement to the family or directly to the utility provider. OCHA will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

The financial hardship rules described below apply in this jurisdiction because OCHA has established a minimum rent of \$50.

Overview

OCHA will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If OCHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.
- For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.
- The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.
- Family income has decreased because of changed family circumstances, including the loss of employment.
- A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).
- The family has experienced other circumstances determined by OCHA.

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

OCHA will make the determination of hardship within 15 calendar days.

Eligibility for exemption will be reviewed on a quarterly basis.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

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

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

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

OCHA has established a restricted payment standard for a designated part of FMR areas and if a family's unit is located in the restricted area, OCHA will use the appropriate payment standard for the restricted area.

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

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

Changes in Payment Standards

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

Decreases

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

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

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

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

Increases

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

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

Changes in Family Unit Size

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

Reasonable Accommodation

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

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

An OCHA-established utility allowance schedule is used in determining family share and OCHA subsidy. OCHA will calculate and apply a utility allowance based upon the voucher size, for which the family is eligible, or the size of the unit rented by the family, whichever is lower. See Chapter 5 for information on OCHA's subsidy standards.

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

Reasonable Accommodation

HCV program regulations require OCHA to approve a utility allowance amount higher than shown on OCHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. The family must request the higher allowance and provide OCHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, OCHA will use the current OCHA utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

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

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS
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24 CFR 5.609

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

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

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

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and

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

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

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

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

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

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

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

<p style="text-align: center;">HHS DEFINITION OF "ASSISTANCE"</p>
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**45 CFR: GENERAL TEMPORARY
ASSISTANCE FOR NEEDY FAMILIES**

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

¹ Text of 45 CFR 260.31 follows.

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

- (i) Are designed to deal with a specific crisis situation or episode of need;
- (ii) Are not intended to meet recurrent or ongoing needs; and
- (iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
- (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
- (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
- (v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

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

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

(13) [Reserved]

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

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

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

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L- 94-540, 90 Stat. 2503-04);

h) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS
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24 CFR 5.603(b) Net Family Assets

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

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

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

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES
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24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

(c) Disallowance of increase in annual income—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

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

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of

such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's

determination of a specified welfare benefits
reduction.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

INTRODUCTION

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

OCHA will follow the verification guidance provided by HUD in Notice 2010-19 and any subsequent guidance issued by HUD.

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

This chapter summarizes those requirements and provides supplementary OCHA policies outlined in the following parts:

Part I: General Verification Requirements

Part II: Verifying Family Information

Part III: Verifying Income and Assets

Part IV: Verifying Mandatory Deductions

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

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

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and OCHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members, including emancipated youth or a spouse under the age of 18 must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

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

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD authorizes OCHA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires OCHA to use the most reliable form of verification that is available and to document the reasons when OCHA uses a lesser form of verification.

In order of priority, the forms of verification that OCHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

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

Requirements for Acceptable Documents

Any documents used for verification will be the original whenever possible, and generally must be dated within 60 days of the date they are provided to OCHA. The documents must not be damaged, altered, or in any way illegible.

OCHA will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, OCHA would accept the most recent report.

Printouts from Web pages are considered original documents.

Photocopies of originals will be maintained in the family file with the exception of those documents that are illegal to photocopy.

Any family self-certifications must be made in a format acceptable to OCHA and must be signed in the presence of an OCHA representative whenever possible.

File Documentation

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

OCHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When OCHA is unable to obtain third-party verification, OCHA will document in the family file the reason that third-party verification was not available. [24 CFR 960.259(c)(1); Notice PIH 2010-19]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to OCHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to OCHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until OCHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of OCHA.

See Chapter 6 for OCHA's policy on the use of UIV/EIV to project annual income.

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

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits and SSI benefits for participant families. HUD requires OCHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

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

OCHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third-party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When OCHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Discrepancy Reports

The EIV discrepancy report is a tool for identifying families who may have concealed or under-reported income. Data in the discrepancy report represents income for past reporting periods and may be between 6 months and 30 months old at the time reports are generated.

Families who have not concealed or under-reported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.

Income discrepancies may be identified through use of the EIV "Income Discrepancy Report" or by review of the discrepancy tab for the individual family.

OCHA will generate the Income Discrepancy Report at least once every 3 months. When OCHA determines that a participant appearing on the Income Discrepancy Report has not concealed or under-reported income, the participant's file will be noted.

OCHA will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or under-reported income, OCHA will request written third-party verification of the income in question.

When OCHA determines through file review and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

OCHA is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2010-3].

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

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

OCHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents and if necessary, obtaining appropriate documentation from the participant.. When OCHA determines that discrepancies exist due to OCHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Upfront Income Verification Using Non-HUD Systems (Optional)

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

OCHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system
- The Work Number
- CalWIN System (State Benefit Information)

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to OCHA by the family. If written third-party verification is not available, OCHA will attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit

verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

OCHA will request four current and consecutive pay stubs for determining annual income from wages.

OCHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Third-party documents provided by the family must be dated within 60 days of OCHA's request date.

If OCHA determines that third-party documents provided by the family are not acceptable, OCHA will explain the reason to the family and request additional documentation.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, OCHA will request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by OCHA.

OCHA will mail, fax, or e-mail third-party written verification form requests directly to third-party sources.

Oral Third-Party Verification [Notice PIH 2010-19]

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

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within 15 calendar days.

In collecting third-party oral verification, OCHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification OCHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third-party agrees to confirm in writing the information provided orally, OCHA will wait no more than 7 calendar days for the information to be provided. If the information is not provided by the 8th calendar day, OCHA will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

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

If the family cannot provide original documents, and it is determined not to be cost effective for OCHA to obtain third-party verification, a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

Primary Documents

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

Imputed Assets [HCV GB, p. 5-28].

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

7-I.E. SELF-CERTIFICATION

Self-certification, or "tenant declaration," is used as a last resort when the OCHA is unable to obtain third-party verification.

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

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

The self-certification must be made in a format acceptable to OCHA and must be signed by the family member whose information or status is being verified. All self-certifications will be signed in the presence of an OCHA representative whenever possible.

When OCHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file will be documented to explain why third-party verification was not available.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card I-94 Card Permanent Resident Card INS Records	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records SSA Documents

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

If none of these documents can be provided, at OCHA's discretion, , a third-party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to OCHA and be signed in the presence of an OCHA representative. Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND NOTICE PIH 2010-3]

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

OCHA will accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

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

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

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

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

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

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

OCHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once an individual's status is classified as "verified" in HUD's EIV system, OCHA will remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, OCHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age will be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

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

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

Marriage

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

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

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

If no court document is available for separation, documentation from the family will be accepted.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., current owner /manager statement, documentation of another address at which the person resides such as a lease or utility bill, or family certification).

Foster Children and Foster Adults

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

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

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

- The family reports full-time student status for an adult other than the head, spouse, or cohead.
- The family reports childcare expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

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

In accordance with the verification hierarchy described in Section 7-1.B, OCHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If OCHA cannot verify at least one of these exemption criteria, OCHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, OCHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

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

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

7-II.F. DOCUMENTATION OF DISABILITY

OCHA will verify the existence of a disability in order to allow certain income disallowances and deductions from income. OCHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. OCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. Under no circumstances will OCHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above-cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy.
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability.
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability.
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

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

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

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

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This Verifications chapter discusses HUD and OCHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

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

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

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

Eligible Immigrants

Documents Required

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

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

OCHA Verification [HCV GB, pp. 5-3 and 5-7]

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

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

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

7-II.H. VERIFICATION OF PREFERENCE STATUS

OCHA will verify any preferences claimed by an applicant.

Member Status (Residency)

OCHA will use leases, utility bills, employer records, school records, driver's licenses, voter's registration records, Social Service Administrative records, or credit reports. For homeless applicants, OCHA may also use proof of services, shelter stays, hotel stays, YMCA stays, address used for receipt of benefits, law enforcement documentation, certification from persons verifying temporary living assistance, or from witnesses other than friends or relatives verifying where they spend the night or take showers.

Veteran Status

OCHA will use Form DD214 - Statement of Service issued by the Veterans Administration.

Elderly Status

OCHA will use a birth certificate or other official record of birth or an original document that provides evidence of the receipt of social security retirement benefits.

Disabled Status

OCHA will use SSI/SDI records or medical records that verify permanent disability.

Working Status

OCHA will use employment records, employer certifications, paycheck stubs, or federal tax return forms.

7-II.I. FULL-TIME STUDENT STATUS

To receive full-time student status, a participant must supply the school transcript that is available after completion of the quarter or semester.

If a transcript is not available, the student registration form, written verification from the registrar's office, or other appropriate school records must be submitted and indicate enrollment for a sufficient number of units or other criteria to be considered a full-time student by the college, university, or other educational institution.

The student must carry twelve (12) or more units per semester/quarter or be considered a full-time student as defined by the standards and practices of the educational institution attended.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family will be verified. This part provides OCHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

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

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

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

A statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy. An audited financial statement for the previous fiscal year will be accepted in lieu of this certification.

All schedules completed for filing federal and local taxes in the preceding year.

OCHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination OCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

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

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

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, OCHA will request a current (dated within the last 60 days of interview date) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), OCHA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to OCHA.

To verify the SS/SSI benefits of participants, OCHA will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in the HUD system, OCHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) OCHA will help the participant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to OCHA.

7-III.D. ALIMONY OR CHILD SUPPORT

The way OCHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular, irregular, or no payments*, verification will be sought in the following order.

- Copy of the receipts and/or payment stubs for the 60 days prior to OCHA request.
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification from the person paying the support.
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether or not any assets have been disposed of for less than fair market value in the preceding two years. [HCV GB, p. 5-28] If the family did dispose of assets for less than fair market value, the certification should include the name of the asset, the date of disposal, the amount received by the family, and the market value at the time of the disposal.

OCHA will verify the value of assets disposed of only if:

- OCHA does not already have a reasonable estimation of its value from previously collected information.
- The amount reported by the family in the certification appears obviously in error.

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

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

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant.
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If Schedule E was not prepared, OCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

OCHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, OCHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, OCHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, OCHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

OCHA will obtain verification for income exclusions only if, without verification, OCHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, OCHA will confirm that OCHA records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income will be verified.

OCHA will reconcile differences in amounts reported by the third-party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, OCHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

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

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education will be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, OCHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), OCHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, OCHA will request written verification of the student's tuition amount.

If OCHA is unable to obtain third-party written verification of the requested information, OCHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

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

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

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

If OCHA is required to determine the income eligibility of a student's parents, OCHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). OCHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to OCHA. The required information must be submitted

(postmarked) within 15 calendar days of the date of OCHA's request or within any extended timeframe approved by OCHA.

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

7-III.L. RECURRING CONTRIBUTIONS AND GIFTS

Where the family receives regular and ongoing contributions or gifts, OCHA will use the following verification:

- Family certification that provides the required information.
- Statement or affidavit signed by the person providing the assistance. This statement must list the purpose of the contribution or gift, the date(s), and the value of contributions or gifts.

7-III.M. OTHER FAMILY ASSETS

For non-liquid assets, sufficient information is required to determine the current cash value, or the net amount the family would receive if the asset were converted to cash. Verification documents may include:

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements prepared by a financial institution or broker.
- A quote from a stockbroker or real estate agent or a listing in the Wall Street Journal that specifies the net amount the family would receive if securities or real estate were liquidated.
- Real estate tax statements, if the tax authority uses approximate market value.
- Copies of closing documents showing the selling price, the distribution of the sales proceeds, and the net amount to the family.
- Appraisals of personal property held as an investment.
- Family certification or signed affidavits describing assets or cash held at home, in safe deposit boxes, or other location.

7-III.N. INTEREST INCOME FROM A PURCHASE-MONEY MORTGAGE, INSTALLMENT SALES CONTRACT, OR SIMILAR AGREEMENT

OCHA will require the following verification for contracts from which the family earns interest:

- A document from an accountant, attorney, real estate broker, the buyer, or a financial institution that states the interest due for the next 12 months. A copy of the check paid by the buyer to the family will not be considered sufficient verification, as an appropriate breakdown of interest and principal is required.
- Amortization schedule showing interest for the 12 months following the effective date of the eligibility determination.

PART IV: VERIFYING MANDATORY DEDUCTIONS

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

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

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. OCHA will verify that:

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

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. OCHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

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

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts. OCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. OCHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, OCHA will verify that:

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

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. OCHA will verify that the family meets the

definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for OCHA's policy on what counts as a medical expense.

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS publications will be used as a guide.

Nonprescription medicines must be doctor recommended with a specific dosage, and verified current expenses projected for the dosage on the receipts must be provided in order to be considered as a medical expense.

Unreimbursed Expenses

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

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, OCHA will verify:

- The anticipated repayment schedule.
- The amounts paid in the past.
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

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

Amount of Expense

Attendant Care

OCHA will accept written third-party documents provided by the family.

If family-provided documents are not available, OCHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

- Expenses for auxiliary apparatus will be verified through:
 - Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
 - Third-party verification form signed by the provider, if family-provided documents are not available.
 - If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.
- In addition, OCHA will verify that:
 - The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
 - The expense permits a family member, or members, to work (as described in 6-II.E.).
 - The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

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

Family Member(s) Permitted to Work

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

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

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

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

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, OCHA will verify that:

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- The child is eligible for care.
 - The costs claimed are not reimbursed.
 - The costs enable a family member to pursue an eligible activity.
 - The costs are for an allowable type of childcare.
 - The costs are reasonable.
 - The provider care can be verified

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. OCHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

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

The family will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

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

Information to be Gathered

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

Seeking Work

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

In the event third-party verification is not available, OCHA will provide the family with a form on which the family member must record job search efforts. OCHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

OCHA will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

OCHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to

work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

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

OCHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

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

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

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

The actual costs the family incurs will be compared with OCHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, OCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Verification of Care Provider

Childcare Providers will be required to submit the following information: Name, address, phone number, and license number. If not licensed, further self-certification may be required.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

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

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits OCHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and OCHA established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least biennially during the term of the contract.

HUD also requires OCHA to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

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

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

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

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

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

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV assisted housing are provided in 24 CFR 982.401.

Modifications to Provide Accessibility

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

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31]. See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to OCHA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

Thermal Environment [HCV GB p.10-7]

The heating system must be permanently functioning and capable of maintaining an interior temperature of 60 degrees Fahrenheit.

Clarifications of HUD Requirements

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

Walls

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

Windows

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

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

Windows shall be operational and clear of obstructions that would prevent ingress and egress. Window screens must be in good condition (applies only if screens are present).

Doors

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

With exception of bathroom locksets all interior doors must have no holes, have all trim intact, and be operable without the use of a key.

Floors

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

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

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

Sinks/Commode

All water lines to sinks and commodes shall have shut off valves, unless faucets are wall mounted.

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

Security

Where are covered by security bars or security screens are present on emergency exit windows, the windows shall be equipped with a functioning quick release system. The owner is responsible for maintaining the system and ensuring that the assisted family is instructed on the use of the quick release system.

8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(A)]

The following are considered life threatening conditions and must be resolved within 24 hours from notification of issue:

- Any condition that jeopardizes the security of the unit including locking windows and doors on the first floor.
- Plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of failing.
- Natural or LP gas or fuel leaks.
- Electrical problems or conditions that could result in shock or fire.
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
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- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.

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- Absence of a functioning toilet in the unit.
 - Inoperable smoke or carbon monoxide detectors.
 - Mold.

If an owner fails to correct life threatening conditions as required by OCHA, the HAP will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life-threatening condition as required by OCHA, OCHA may terminate the family's assistance. See 8-II.H.

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

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

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service.
- Failure to provide or maintain family-supplied appliances.
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items, which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

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

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If OCHA is notified by a public health department or a medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV assisted unit has been identified as having an environmental intervention blood lead level, OCHA will remove the family from the dwelling and request the County Health Department to complete a visual assessment of the dwelling unit and recommend the level of action needed by the owner to resolve the situation.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If OCHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition and an acceptable unit is available for rental by the family, OCHA will issue the family a new voucher, and terminate the HAP contract in

accordance with its terms. HQS allow two persons per living/sleeping room and would permit the following maximum occupancy, assuming a living room is used as a living/sleeping area:

0-BR	2
1-BR	4
2-BR	6
3-BR	8
4-BR	10
5-BR	12
6-BR	14

PART II: THE INSPECTION PROCESS

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

Types of Inspections

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

- *Initial Inspections.* OCHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Biennial Inspections.* HUD requires OCHA to inspect each unit under lease at least biennially to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that all inspectors are enforcing HQS correctly and uniformly.
- *Mobility Inspections.* Inspections conducted in OCHA's jurisdiction for the other Housing Authorities (Anaheim and Garden Grove) that have entered into a Mobility Agreement in Orange County.

The HQS will take precedence over state and/or local housing codes unless approval to apply the more restrictive code(s) has been given by HUD's local area office. Failed items are subject to photographic documenting by OCHA staff.

Notice and Scheduling

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

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 7:00 a.m. and 5:00 p.m. Generally inspections will be conducted on business days only. In the case of a life-threatening emergency, OCHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

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

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

At initial inspection of a vacant unit, OCHA will inspect the unit in the presence of the owner or owner's representative. The presence of an adult family representative over the age of 18 is required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(A)]

Timing of Initial Inspections

OCHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 7 business days of submission of the Request for Tenancy Approval (RTA). Provided the unit is ready for inspection and the Rent Reasonableness has been certified.

Inspection Results and Re-inspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct the deficiencies. If requested by the owner, the time frame for correcting the deficiencies may be extended by OCHA for good cause. OCHA will re-inspect the unit within 7 business days of the date the owner notifies OCHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any OCHA approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, OCHA will notify the owner and the family that the unit has been rejected and the HAP abatement process will be initiated per OCHA's policy in 8-II.G. Following a failed re-inspection, the family may submit a new Request for Tenancy Approval (RTA) for the unit if the family has not found another unit by the time the owner completes all repairs satisfactorily and the family continues to want to live in the unit.

Utilities

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

Appliances

If the family is responsible for supplying the stove and/or refrigerator, OCHA will verify the stove and refrigerator are placed in the unit before the HAP is paid by OCHA.

8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(A)]

Scheduling the Inspection

If an adult family member cannot be present, the manager or owner can let OCHA gain access to unit to conduct the HQS inspection.

If the family misses the first scheduled appointment without requesting a new inspection date, OCHA will automatically schedule a second inspection. If the family misses two scheduled inspections without OCHA approval, OCHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, P. 10-30]

OCHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

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

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(B); HCV GB, P. 10-32]

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

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include:

- Each type of inspection (initial, and annual).
- Inspections completed by each inspector.
- Units from a cross-section of neighborhoods.

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

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all failed inspections. OCHA will determine whether or not the failure is a life threatening condition.

When life-threatening conditions are identified, OCHA will immediately notify both parties by telephone, facsimile, or email. The corrective actions must be taken within 24 hours of OCHA 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 7 business days of the date of the inspection. The written notice will indicate items that need to be corrected, and the time frame in which they must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any OCHA approved extension), the owner's HAP will be abated in accordance with OCHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any OCHA approved extension, if applicable) the family's assistance will be terminated in accordance with OCHA policy (see Chapter 12).

Acceptability Criteria and Exceptions to HQS

OCHA adheres to the acceptability criteria in the program regulations and the HUD Inspection Booklet with the following exceptions:

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- OCHA will fail unsanitary conditions when exposed food, garbage, and excrement exist to a degree where health may be endangered.
 - If the unit was constructed prior to 1978 and the family includes a child less than six years of age, with an identified Elevated Blood Level (EBL) condition indicating potential exposure to lead paint, OCHA will conduct a visual assessment for deteriorated paint. Deteriorated paint includes any painted surface that is peeling, chipping, chalking, cracking, damaged or otherwise separated from the substrata. Referrals will be made as appropriate.
 - In rooms without an exterior exit door, if windows have hinged grills, one window per bedroom and living room must have an interior release mechanism with a permanently attached activator. No removable keys or any other removable release method is allowed.
 - Double cylinder-keyed locks are not acceptable on an exterior door.
 - Double cylinder-keyed locks on interior doors are not acceptable
 - Microwave ovens may be substituted for an oven/stove.
 - The unit must show an address, which must be visible from the street and approved by city and or post office as a valid address.
 - The breaker box must have a panel and a cover to avoid exposed wiring.
 - Smoke and Carbon Monoxide detectors, (at least one battery-operated or hard-wired smoke detector and Carbon Monoxide detector) must be present and working on each level of the unit, including the basement, but not including the crawl spaces and unfinished attic.
 - Smoke detectors and Carbon Monoxide detectors must be installed in accordance with and the meet the requirements of the National Fire Protection Association Standard (NFPA 74 or its successor standards). If any hearing-impaired person occupies the dwelling unit, smoke and carbon monoxide detectors must have an alarm system designed for hearing-impaired persons as specified in NFPA 74 (or successor standards). The tenant will pay the cost of such smoke/carbon monoxide detectors.
 - If the unit was under HAP contract prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992 (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e. the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit). This does not apply to carbon monoxide detectors.
 - Water heaters must have a temperature-pressure relief valve and discharge line (directed toward the floor or outside of the living area) as a safeguard against buildup of steam if the water heater malfunctions. The discharge line must reach from the top of the tank to within six inches from the finished floor. If not, they are not properly equipped and shall fail.
 - To pass inspection, gas or oil-fired water heaters must be vented into a properly installed chimney or flue leading outside. Electric water heaters do not require venting. The water heater must be properly braced, anchored with metal straps to the wall. At least two (2)

of the devices stated must be used. This applies (per California law) to all new, replacement and existing residential water heaters.

- If it is impossible to view the water heater, verification of safety of the system must be obtained from the owner or manager.
- Water heaters will pass OCHA requirements if the water heater has passed a local inspection. This applies primarily to hot water that is supplied by a large-scale complex water heating system that serves multiple units (e.g. water heating system in large apartment building).
- Adequate heat shall be considered to be 60 degrees for all rooms used for living.
- All built-in electrical appliances/fixtures in the assisted unit must be in working condition or must be repaired, replaced or removed.
- Swimming Pool Safety – The owner must comply with all city/state codes that apply to swimming pool safety within the city where the assisted unit is located. Basic requirements:
 - Enclosure (fence or wall) shall be at least 5 feet above the ground.
 - Access gates that open away from the swimming pool need to be self-closing with a self-latching device placed no lower than 60 inches above the ground.
 - Swimming pool water shall be maintained in a clear, sanitary condition.
 - This rule shall apply to initial (new) leases and termination/transfer new leases (effective 1/1/04). This rule shall be applied as a recommendation for annual inspections leased prior to 1/1/04.
 - Jacuzzi/spa should be covered when not in use.

Extensions

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

Extensions will be granted in cases where OCHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control to complete the repairs and has requested an extension in writing.

Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

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

Re-inspections

OCHA will conduct a re-inspection immediately following the end of the corrective period, or any OCHA approved extension.

The family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, OCHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with OCHA policies. If OCHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, OCHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, OCHA will take prompt and vigorous action to enforce the owner obligations either by contract termination or HAP abatement.

HAP Abatement

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 inspect abated units within 7 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

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

HAP Contract Termination

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies OCHA before the termination date of the HAP contract, OCHA may rescind the termination notice if:

- The family still resides in the unit and wishes to remain in the unit.
- The unit passes inspection.

Reasonable notice of HAP contract termination by OCHA is 30 days.

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

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by OCHA (and any extensions), OCHA will terminate the family's assistance, according to the policies described in Chapter 12.

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

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until OCHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

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

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

Owner-initiated Rent Determinations

OCHA will make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

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

OCHA will determine whether the requested increase is reasonable within 7 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective the first of the month following 60 days of OCHA's receipt of a copy of the owner's notice to tenant or on the date specified by the owner, whichever is later.

OCHA and HUD-Initiated Rent Reasonableness Determinations

OCHA will make a determination of rent reasonableness at any time after the initial occupancy period if:

- OCHA determines that the initial rent reasonableness determination was in error.
- OCHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

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

- Location and Age
- Unit size including the number of rooms and square footage of rooms

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- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise).
 - The quality of the unit including the quality of the original construction, maintenance and improvements made.
 - Amenities, services and utilities included in the rent.

Units that Must Not be Used as Comparables

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

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (RTA) (HUD Form 52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

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

8-III.D. OCHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

OCHA will collect and maintain data on market rents in OCHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries to owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. OCHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, OCHA may make adjustments to the range of prices to account for these differences.

OCHA will notify the owner of the rent OCHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. OCHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional

information within 7 business days of OCHA's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

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

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

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

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

Space and Security

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

Thermal Environment

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

Illumination and Electricity

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

Structure and Materials

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

Interior Air Quality

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

Water Supply

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

Lead-Based Paint

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

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed.
- Provide all prospective families with "Protect Your Family from Lead in Your Home" brochure.
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by OCHA.
- Notify tenants each time such an activity is performed.
- Conduct all work in accordance with the California Occupational Safety and Health Administration (CAL/OSHA) and HUD safe practices.
- As part of ongoing maintenance ask each family to report deteriorated paint.

Access

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

Site and Neighborhood

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

Sanitary Condition

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

Smoke Detectors and Carbon Monoxide Detectors

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

Hazards and Health/Safety

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

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

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

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

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

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family may determine whether the sanitary conditions in the unit including minor infestations are acceptable as long as OCHA does not fail the unit for such conditions.

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- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

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

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

This chapter describes HUD regulations and OCHA policies related to the leasing process from the family's submission of a Request for Tenancy Approval (RTA) form to execution of the Housing Assistance Payment (HAP) contract.

In order for OCHA to assist a family in a particular dwelling unit, or execute a HAP contract with the owner of a dwelling unit, OCHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)].
- The unit must be inspected by OCHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)] before the effective date of assisted lease and HAP contract.
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)].
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)].
- The owner must be an eligible owner, approvable by OCHA, with no conflicts of interest [24 CFR 982.306].
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)].

This chapter describes HUD regulations and OCHA policies related to the leasing process in one part:

Part I: The Lease-up Process. This part details the procedures, policies, and requirements.

PART I: THE LEASE-UP PROCESS

9-I.A. TENANT SCREENING

OCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before OCHA approval of the tenancy, OCHA will inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. OCHA will also inform the owner or manager of his/her rights and obligations under the Violence against Women Act of 2005 VAWA [24 CFR 5.2005(a)(2)].

OCHA may provide the owner with the family's current and prior address (as shown in OCHA records); and the name and address (if known to OCHA) of the owner at the family's current and prior address [24 CFR 982.307 (b)(1)].

OCHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

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

OCHA will not screen applicants for family behavior or suitability for tenancy.

OCHA will not provide additional screening information to the owner.

9-I.B. REQUESTING TENANCY APPROVAL [FORM HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner willing to participate in the HCV program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request OCHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit a completed Request for Tenancy Approval (RTA) Form HUD-52517:

- The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for OCHA to determine whether to approve the assisted tenancy in this unit.
- Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.
- Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless OCHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

The RTA must be submitted no later than the expiration date stated on the voucher [HCV GB p.8-15], unless an extension has been granted by OCHA.

Both the family and the owner must sign the RTA.

The owner may submit the RTA on behalf of the family.

The completed RTA must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and OCHA will not process, more than one (1) RTA at a time.

When the family submits the RTA, OCHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, OCHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, fax or email. OCHA will not accept missing information over the phone.

Because of the time sensitive nature of the tenancy approval process, OCHA will attempt to communicate with the owner and family by phone, fax, or email. OCHA will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

OCHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where OCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the HCV program. Generally, a family may choose any available rental dwelling unit on the market in OCHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

OCHA may not assist a unit under the HCV program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit; mobile homes excluded.

Special Housing Types [24 CFR 982 Subpart M]

See Chapter 15 for specific information and policies on any of these housing types that OCHA has chosen to allow.

The regulations do require OCHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance.
- Other Section 8 assistance (including other tenant-based assistance).
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974).
- Section 101 rent supplements.
- Section 236 rental assistance payments.
- Tenant-based assistance under the HOME Program.
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration).
- Any local or State rent subsidy.
- Section 202 supportive housing for the elderly.
- Section 811 supportive housing for persons with disabilities.
- Section 202 projects for non-elderly persons with disabilities (Section 162 assistance).
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's HQS and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; OCHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)].

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

OCHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information below:

- The names of the owner and the tenant.
- The unit rented (address, apartment number, and any other information needed to identify the contract unit).
- The term of the lease (initial term and any provisions for renewal).
- The amount of the monthly rent to owner.

A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit OCHA to approve a shorter initial lease term if certain conditions are met.

OCHA may approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent. [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

OCHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. OCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus OCHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

OCHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances, or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances, or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

If utilities are divided among tenants from a single metered utility, OCHA may request a copy of the actual utility bill with percentages and explanation of the division.

OCHA Review of Lease

OCHA will review the lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, OCHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. OCHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, OCHA will attempt to communicate with the owner and family by phone, fax, or email. OCHA will use mail when the parties can't be reached by phone, fax, or email.

OCHA will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

OCHA will complete its determination within 5 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with OCHA, OCHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. If OCHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. OCHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), OCHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher with a credit of the down time of the negotiation credited to the time on the voucher if needed. The designee, designated by the Executive Director, will execute the contract on behalf of OCHA.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between OCHA and the owner of the dwelling unit occupied by a HCV program assisted family. Under the HAP contract, OCHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all HCV program requirements.

The HAP contract format is prescribed by HUD.

If OCHA has given approval for the family of the assisted tenancy, the owner and OCHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

OCHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

OCHA will make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

OCHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, OCHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP.

Any HAP contract executed after the 60-day period is void, and OCHA may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to OCHA. OCHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and OCHA will execute the HAP contract. OCHA will not execute the HAP contract until the owner has submitted IRS form W-9. OCHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give OCHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, OCHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless OCHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances.
- Changes in lease provisions governing the term of the lease.

In these cases, if the HCV program assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify OCHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR

982.308(g)(4)]. OCHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease and HUD regulations.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, OCHA will determine whether the requested increase is reasonable within 5 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the tenant and OCHA of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the Housing Choice Voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV program assistance. This chapter sets forth HUD regulations and OCHA policies governing moves within or outside OCHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under OCHA's HCV program, whether the family moves to another unit within OCHA's jurisdiction, or to a unit outside OCHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into OCHA's jurisdiction. This part also covers the special responsibilities that OCHA has under portability regulations and procedures.

Part III: Mobility. This part covers how this move is distinct from Portability and shall mean the movement of HCV Holders among the three PHAs, Anaheim, Garden Grove and Orange County, within the geographic boundaries of the County of Orange, California.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease, for the owner's breach or otherwise, on notice to the owner and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must provide OCHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)]. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give OCHA a copy of the termination agreement.
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The owner must give OCHA a copy of any eviction notice [24 CFR 982.551(g)].
- OCHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- OCHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, OCHA will issue the family a new voucher, and the family must try to find an acceptable unit, as soon as possible. If an acceptable unit is available for the family, OCHA will terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month in which OCHA gives notice to the owner. [24 CFR 982.403(a) and (c)] or a mutually agreed upon date.
- The family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to OCHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)].

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking, OCHA will request documentation in accordance with section 16-IX.D of this plan. OCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases OCHA will document the waiver in the family's file.

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which OCHA may deny a family permission to move and two ways in which OCHA may restrict moves by a family.

Denial of Moves

HUD regulations permit OCHA to deny a family permission to move under the following conditions:

Insufficient Funding

OCHA may deny a family permission to move either within or outside OCHA's jurisdiction if OCHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

OCHA will deny a family permission to move on grounds that OCHA does not have sufficient funding for continued assistance if:

- The move is initiated by the family, not the owner or OCHA.
- OCHA can demonstrate that the move will, in fact, result in higher subsidy costs.
- OCHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

OCHA will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. OCHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

OCHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

OCHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

If OCHA has grounds for denying or terminating a family's assistance, OCHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. OCHA may deny a family permission to move if the family has a repayment agreement with a balance that has not been satisfied.

Restrictions on Elective Moves [24 CFR 982.314(c)]

OCHA may deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within OCHA's jurisdiction or outside it under portability.

OCHA may deny a family permission to make more than one elective move during any 12-month period. However, such prohibitions do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.). This policy applies to all assisted families residing in OCHA's jurisdiction.

OCHA may consider exceptions to these policies for the following reasons; to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, OCHA may allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify OCHA and the owner in writing before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside OCHA's jurisdiction under portability, the notice to OCHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2011-3]. The notices must be in writing [24 CFR 982.5].

Reexamination of Family Income and Composition

For families moving into or families approved to move out of OCHA's jurisdiction under portability, OCHA will follow the policies set forth in Part II of this chapter.

Unpaid Rent and/or Unpaid Damages

In the event OCHA receives timely written notice from the landlord of the former assisted unit that a family owes unpaid rent and/or unpaid damages, OCHA may place the voucher on hold for up to 60 days to allow for the matter to be resolved. If the matter is unresolved and OCHA determines the unpaid rent and/or unpaid damages are program violations, OCHA may terminate the family's assistance.

Voucher Issuance and Briefing

For families approved to move to a new unit within OCHA's jurisdiction, OCHA will issue a new voucher. No briefing is required for these families. OCHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued HCV program assistance, if the owner agrees and OCHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of OCHA's jurisdiction under

portability, OCHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, OCHA will not make any housing assistance payment to the owner for any month after the termination date.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the *initial PHA*. The second is called the *receiving PHA*.

The receiving PHA has the option of (1) administering the family's voucher for the initial PHA or (2) absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. OCHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. OCHA AS INITIAL PHA

Allowable Moves under Portability

A family may move with HCV program assistance only to an area where there is at least one PHA administering the HCV program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the family will choose the receiving PHA.. [24 CFR 982.355(b)].

Applicant families that have been issued vouchers, as well as participant families, may qualify to lease a unit outside OCHA's jurisdiction under portability. OCHA as the initial PHA, in accordance with HUD regulations and OCHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside OCHA's jurisdiction under portability. However, HUD gives OCHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

In determining whether or not to deny an applicant family permission to move under portability because OCHA lacks sufficient funding or has grounds for denying assistance to the family, OCHA as the initial PHA will follow the policies established in section 10-I.B of this chapter.

If neither the head of household nor the spouse/cohead of an applicant family had a legal residence in OCHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in OCHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

OCHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, or stalking. However, any exception to this policy is subject to the approval of OCHA [24 CFR 982.353(c)(3)].

Participant Families

OCHA as the initial PHA will not provide portable assistance for a participant family that has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by further violence if he or she remained in the unit [24 CFR 982.353(b)].

OCHA will determine whether a participant family may move out of OCHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. OCHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2011-3].

OCHA as the initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, OCHA will inform the family that it may not move there and receive voucher assistance [Notice PIH 2011-3].

Participant Families

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No interim reexamination of family income and composition will be performed.

Briefing

No formal briefing will be required for a participant family wishing to move outside OCHA's jurisdiction under portability. However, OCHA as the initial PHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). OCHA will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. OCHA will advise the family that they will be under the receiving housing authority's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

For families approved to move under portability, OCHA will issue a voucher or use the existing voucher to port-out within 15 calendar days of HAP contract termination date.

The total term of the voucher will be 120 days (see Chapter 5).

Voucher Extensions and Expiration

OCHA will not approve an extension to a voucher issued to an applicant or participant family porting out of OCHA's jurisdiction. For reasonable accommodation, OCHA will consider approving extensions on a case by case basis. To receive or continue receiving assistance under OCHA's HCV program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of OCHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy).

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the OCHA will contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the OCHA will determine whether it will approve or deny the move [Notice PIH 2011-3].

OCHA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher

Initial Notification to the Receiving PHA - OCHA

Because the portability process is time-sensitive, OCHA will notify the receiving PHA by phone, fax, mail or e-mail (if available) to expect the family. OCHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. OCHA will pass this information along to the family. OCHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

OCHA as the initial PHA will send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2011-3].
- A copy of the family's voucher [Notice PIH 2011-3].
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2011-3].
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(4), Notice PIH 2011-3].

In addition to these documents, OCHA may provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs).
- Documentation of SSNs for all nonexempt household members who's SSNs have not been verified through the EIV system.
- Documentation of legal identity.
- Documentation of citizenship or eligible immigration status.
- Documentation of participation in the earned income disallowance (EID) benefit.
Documentation of participation in a family self-sufficiency (FSS) program.

OCHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2011-3]

OCHA may contact the receiving PHA within 45 days following the expiration date of the voucher issued to the family by OCHA. If the receiving PHA reports that they have not entered into a HAP contract on behalf of the family, OCHA will inform the receiving PHA that OCHA will not honor any billing received after the billing deadline. OCHA will return any late billing submissions received from the receiving PHA. OCHA will notify the receiving PHA of its decision in writing.

OCHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2011-3]

If the receiving PHA is administering the family's voucher, OCHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after OCHA receives Part II of form HUD-52665 from the receiving PHA. The receiving PHA will receive subsequent payments no later than the fifth business day of each month. The payments will be provided in a form and manner that the receiving PHA is able and willing to accept.

OCHA as the initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls.

Annual Updates of Form HUD-50058

If OCHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If OCHA fails to receive an updated 50058 by the family's annual reexamination date, OCHA will contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If OCHA as the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, OCHA may act on those grounds at any time. (For OCHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. OCHA AS THE RECEIVING PHA

Procedures and preferences for selection among eligible applicants for OCHA's waiting list do not apply to receiving eligible portable families from outside OCHA's jurisdiction. [24 CFR 982.355(10)]. However, the family's voucher size is determined in accordance with OCHA subsidy standards [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in OCHA's HCV program [24 CFR 982.355(e)(2)].

Responding to Initial PHA's Request

OCHA will respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If OCHA informs the initial PHA that it will be absorbing the voucher, OCHA cannot reverse its decision at a later date [Notice PIH 2011-3].

OCHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into OCHA's jurisdiction under portability, the family is responsible for promptly contacting OCHA and complying with OCHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, OCHA will not process the family's paperwork and will refer the family back to the initial PHA [Notice PIH 2011-3].

OCHA may delay/deny approval of a unit or issuance of a voucher if the portable family refuses to comply with OCHA procedures. If OCHA refuses to continue processing or provide assistance to a family under portability procedures for noncompliance with OCHA procedures, the family will be given the opportunity for an informal review or hearing [Notice PIH 2011-3]. However, OCHA will not extend the term of the initial PHA voucher to accommodate an informal hearing.

Briefing

OCHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family of: the portability process, the benefits of living in low poverty census tracts, OCHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

As a courtesy, OCHA will provide a listing of landlords known to the PHA who may be willing to lease a unit to the family.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2011-3, 24 CFR 982.201(b)(4)]. The

receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

OCHA will conduct an initial reexamination of a portable family's income and family composition to confirm or update the family's information provided by the initial PHA.

Voucher Issuance

When a family moves into its jurisdiction under portability, OCHA as the receiving PHA will issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to OCHA during the term of OCHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

When a family ports into its jurisdiction with an expired voucher, OCHA will contact the initial PHA to determine whether the initial PHA will extend the voucher.

Voucher Term

OCHA's voucher will not expire less than 30 calendar days from the expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2011-3]

OCHA as the receiving PHA will not extend the term of the voucher that it issues to an incoming portable family unless OCHA will absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

OCHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

With the initial PHA's approval, OCHA will give tolling time from the date the family submitted the RTA to the date it approves or denies the request.

Notifying the Initial PHA

OCHA as the receiving PHA will notify the initial PHA if the family has leased an eligible unit under the HCV program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher [24 CFR 982.355(c)(8)]. OCHA will use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2011-3]. If an incoming portable family ultimately decides not to lease in OCHA's jurisdiction but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, OCHA will refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by OCHA's voucher is only valid for the family's search in OCHA's jurisdiction. [Notice PIH 2011-3]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and OCHA intends to administer the family's voucher, OCHA will submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date OCHA executes a HAP contract on behalf of the family

and (b) in time that the notice will be received no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2011-3]. A copy of the HUD-50058 Family Report will be attached to the initial billing notice. OCHA may send these documents by mail, fax, or e-mail.

Ongoing Notification Responsibilities [Notice PIH 2011-3, HUD-52665]

Annual Reexamination

OCHA will send the initial PHA a copy of the updated HUD-50058 after each annual reexamination for the duration of time OCHA is billing the initial PHA.

Change in Billing Amount

OCHA will notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- Voucher extension
- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.).
- An abatement or subsequent resumption of the HAP payments.
- Termination of the HAP contract.
- Payment of a damage/vacancy loss claim for the family.
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2011-3]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, OCHA will notify the initial PHA in writing of the deficiency. The notice will identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). If the initial PHA fails to correct the problem by the second month following the notification, OCHA as the receiving PHA may request by memorandum to the director of the Office of Public Housing (OPH) with jurisdiction over OCHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter will be attached. OCHA will send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, and the initial PHA is still responsible for any outstanding payments due to OCHA.

Denial or Termination of Assistance

At any time, OCHA as the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

If OCHA elects to deny or terminate assistance for a portable family, OCHA will notify the initial PHA within 15 calendar days after the informal review or hearing if the denial or termination is upheld. OCHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. OCHA will furnish the initial PHA with a copy of the informal review or hearing decision.

Absorbing a Portable Family

If OCHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, OCHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If OCHA decides to absorb a family after that, it will provide the initial PHA with 30 days advance notice.

PART III: MOBILITY

10-III.A. MOBILITY

The cities of Anaheim, Garden Grove and Santa Ana each operate their own Housing Authority and are not within the jurisdiction of Orange County Housing Authority.

To facilitate tenant moves between Housing Authority (HA) jurisdictions and to reduce administrative burdens of the portability process, the Anaheim, Garden Grove, Santa Ana and Orange County Housing Authorities entered into a Mobility Agreement (MOA).

This provision enables eligible program participants with a Housing Choice Voucher issued by their initial HA in Anaheim, Garden Grove, Santa Ana or Orange County, to move into another HA operating within the County of Orange, under modified portability procedures.

Tenants requesting to move under the provisions governing Mobility are identified as Mobility tenants. Families continue to receive direct services from the initial HA where they first received their HCV voucher; however unit inspections and rent determinations are conducted and approved by the agency with authority to administer the HCV program in the area where the unit is located.

Chapter 11

REEXAMINATIONS

INTRODUCTION

OCHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations. HUD regulations and OCHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

OCHA will conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent will be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

OCHA has established a policy to ensure that the annual reexamination for each family is completed within a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

OCHA will generally begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, OCHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial admission.

OCHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead, and all adult members of the family 18 years of age and older.

If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact OCHA to request a reasonable accommodation (see Chapter 2).

If participation in an in-person interview poses a hardship because the tenant is 62 years of age or older, the tenant should submit a request in writing for a phone and/or mail interview.

At its discretion, OCHA may elect to conduct phone/mail reexaminations for all tenants, or for elderly and/or disabled tenants. In addition to elderly and disabled participants, OCHA will transition to increase the number of mail re-examinations to include other households. This process will be phased in gradually and incrementally beginning in 2015.

OCHA will give tenants who were not provided the option to complete Form HUD-92006 the opportunity to do so at this time [Notice PIH 2009-36].

Notification of annual reexamination interviews will be sent by first-class mail or by e-mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact OCHA in advance of the interview to schedule a new appointment. If a family does not attend the

scheduled interview, OCHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without OCHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and OCHA will execute a certification attesting to the role and assistance of any such third party.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to OCHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an OCHA designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as, supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 15 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally will be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or OCHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity.
- Age.
- Social security numbers.
- A person's disability status.
- Citizenship or immigration status.

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), OCHA will issue the family a new voucher, and the family must try to locate an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, OCHA will terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(B)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility will be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV program assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with OCHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV program assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

During the annual reexamination process, OCHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), OCHA will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

OCHA has established policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the family's anniversary date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If OCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by OCHA, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual

reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

- If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
- If OCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by OCHA.
- If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by OCHA by the date specified, and this delay prevents OCHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD regulations permit OCHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. OCHA will complete the interim reexamination within a reasonable time after the family's request.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

OCHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval [24 CFR 982.551(h)(2)].

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require OCHA approval. However, the family must inform OCHA of the birth, adoption or court-awarded custody of a child within 15 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request OCHA approval in writing to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Families must request OCHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 consecutive days, or 30 cumulative days, within a 12-month period and therefore no longer qualifies as a "visitor" or "guest." Requests must be made in writing and approved by OCHA prior to the individual moving into the unit.

Approval for adding another member to the household is not automatic and will be determined by a number of contributing factors that include: direct benefit to the head-of-household, reasonable accommodation due to a disability, health and/or safety issues that directly affect other family members, if an increase in bedroom size is needed or requested, and funding availability. The addition of another household or family member may or may not result in approval for a change in the bedroom size of the HCV.

When any new family member is added, OCHA will conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), OCHA will issue the family a new voucher, and the family must try to

locate an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, OCHA will terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

If a former family member wishes to return to the assisted unit and be included in the family composition, approval must be granted by OCHA, prior to their return. If their absence exceeds two years, approval will not be granted. If their return is within two years, the request will be considered.

OCHA will not approve the addition of a new or returning family or household member unless the individual meets OCHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

If OCHA determines that an individual meets OCHA's eligibility criteria and documentation requirements, OCHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS space standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If OCHA determines that an individual does not meet OCHA's eligibility criteria and documentation requirements, OCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

If an increase in the bedroom size of the HCV is necessary for a live-in aide, OCHA will not process the increase in bedroom size until the selected aide is approved by OCHA.

OCHA will make its determination within 15 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify OCHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the voucher size [24 CFR 982.402], OCHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a household member ceases to reside in the unit, the family must inform OCHA in writing within 15 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform OCHA within 15 calendar days. If a live-in aide ceases to reside in the unit, OCHA will allow the family a maximum of 60 calendar days to find a replacement.

OCHA will reduce the voucher size and payment standard, if applicable, if the live-in aide replacement is not found within the 60-day timeframe at the next annual reexamination.

A time extension may be granted for extenuating circumstances related to securing a replacement live-in aide as reasonable accommodation.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because OCHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

OCHA Initiated Interim Reexaminations

OCHA initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by OCHA. They are not scheduled because of changes reported by the family.

OCHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), OCHA will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).
- If the family has reported zero income, OCHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income. The head-of household and each adult family member will be required to submit a completed OCHA form to document expenses for the prior 3-month period. The family may be required to attend an in-person interview if the family continues to report zero income for six months.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), OCHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, OCHA will conduct an interim reexamination.
- OCHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

OCHA will perform an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(c)] [24 CFR 982.516(b)(2)]

Required Reporting

Families are required to report all changes in earned and unearned income, assets, expenses, and family circumstances within 15 calendar days of the date the change takes effect.

Families will be required to pay back overpayments of rental assistance resulting from failure to report a change in income or family composition.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

If the family reports an increase in annual income in the amount of \$1,000 or less, OCHA will not process an interim change, and the family will be notified in writing.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify OCHA of changes in writing. If the family provides oral notice, OCHA will require the family to submit the changes in writing prior to processing the interim reexamination.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if OCHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, OCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 15 calendar days of receiving a request from OCHA. This time frame may be extended for good cause with OCHA approval. OCHA will accept required documentation by mail, by fax, by e-mail, or in person.

Effective Dates

[24 CFR 982.516(d)] [HCV GB, p. 12-10]

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days notice to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, or if the family provides incorrect or incomplete information, the increase will be applied retroactively, to the date it would have been effective had the information been correct and provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16. If the omission or misrepresentation is considered to be willful, OCHA will terminate assistance to the family.
- Families will be required to pay one month of increased rent if the family reports a decrease upon notification of the increase.

If the family share of the rent is to *decrease*:

- Generally, if reported before the 15th of the month, the decrease will be effective on the first day of the month following the month in which the change was reported provided that all required documentation was submitted and verified.
- Reported decreases will not be processed for loss of welfare benefits due to fraud or a failure to participate in a self-sufficiency or work activity.
- Reported decreases will not be processed if the change will last less than thirty (30) days.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, OCHA will recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in OCHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When OCHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If OCHA's payment standards amounts change during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
 - If the payment standards have *increased*, the increased payment standards will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
 - If the payment standards have *decreased*, the decreased payment standards will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the voucher size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in OCHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in OCHA's utility allowance schedule [HCV GB, p. 12-5].

Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, OCHA will use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, OCHA will use OCHA's current utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

OCHA will notify the owner and family of any changes in the amount of the HAP [HUD-52641, HAP Contract]. The notice will include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP.
- The amount and effective date of the new family share of the rent.
- The amount and effective date of the new tenant rent to owner.

The family must be given an opportunity for an informal hearing regarding OCHA's determination of their annual or adjusted income, and the use of such income to compute the HAP [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

The notice to the family will include the previous and new family share of the rent and HAP. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, OCHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, OCHA may discover errors made by OCHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapters 14 and 16.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which OCHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by OCHA based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that OCHA may consider in lieu of termination, the criteria OCHA will use when deciding what action to take, and the steps OCHA will take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires OCHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits OCHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV program assistance at any time by notifying OCHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the Housing Assistance Payment (HAP) made by OCHA decreases. If the HAP amount decreases to zero, and remains at zero for 180 consecutive calendar days, the family's HCV program assistance is automatically terminated.

The family will be notified of their right to remain on the program at zero HAP for six-months. OCHA will continue to perform administrative tasks normally required, such as reexaminations and inspections, during the six-month period.

If the family wants to move to another unit during this six-month period, OCHA will not execute a new HAP contract for the new unit while at zero HAP. A new HAP Contract will only be executed in the event of resumed assistance.

If a participating family receiving zero HCV program assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify OCHA in writing of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that OCHA terminate the family's HCV program assistance at any time.

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or cohead.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires OCHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

OCHA may terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in Section 12-II.E, incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of

assistance is not mandatory. In such cases, OCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C. In making its decision, OCHA will consider the factors as described in sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

OCHA will terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

OCHA will terminate assistance if:

- A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status.
- A family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family.
- A family member, as determined by OCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Documentation Numbers [24 CFR 5.218(c), Notice PIH 2010-3]

OCHA will terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and OCHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, OCHA may defer the family's termination and provide the opportunity for the family to comply with the requirement within a period not to exceed 90 calendar days from the date OCHA determined the family to be noncompliant if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

OCHA will terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, OCHA will terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but will be issued a voucher to move with continued assistance in accordance with program regulations and OCHA policies, or will be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

OCHA will terminate program assistance for deceased single member households in the month of the death.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

Use of Illegal Drugs and Alcohol Abuse

OCHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug (including medical marijuana), or has a pattern of illegal drug use (including medical marijuana) that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

OCHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs (including medical marijuana) during the previous one year.

OCHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs (including medical marijuana) or abuse of alcohol.

In making its decision to terminate assistance, OCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug (including medical marijuana), or the possession of a drug with intent to manufacture, sell, distribute or use the drug (including medical marijuana).

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

OCHA will terminate a family's assistance if any household member and/or their visitor/guest have violated the family's obligation not to engage in any drug-related (including medical marijuana) or violent criminal activity during participation in the HCV program.

OCHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related (including medical marijuana) or violent criminal activity, and any eviction or notice to evict based on drug-related (including medical marijuana) or violent criminal activity.

In making its decision to terminate assistance, OCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]

As discussed further in section 12-II.E, the Violence against Women Act of 2005 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such abuse.

OCHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

OCHA **will** terminate a family's assistance if:

- The family and/or their visitor/guest have failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related OCHA policies.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation, or public housing programs.
- The family has not reimbursed the owner for verified damages to the unit or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with OCHA.
- A family member and/or their visitor/guest have engaged in or threatened violent or abusive behavior toward OCHA personnel.
 - *Abusive or violent behavior towards OCHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
 - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, OCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Prohibition Periods for Some Offenses for Applicants and Participants

Lifetime	Indefinitely	Five Years	Five Years cont.	One Year
Program participants and applicants subject to lifetime sex-offender registration under a state sex-offender registration program.	Currently engaging in illegal drug activities including use, production, or sales. Includes medical marijuana.	Previous violent criminal activity.	From date of eviction from any federally-assisted housing for illegal drug activities for personal drug use. (including medical marijuana) (Does not apply with evidence of rehabilitation or absent violator.)	Illegal drug use or possession for personal use (including medical marijuana) unless a family obligation was violated at the same time, then the 5-year prohibition period applies. (One year does not apply if proof of completing rehabilitation program is provided.)
Program participants and applicants convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.	Pattern of abuse, or abuse of alcohol that interferes with the health, safety, or right to peaceful enjoyment of others.	Previous illegal drug activity that involves sales, transportation, manufacture, or possession for sale.	From date of termination of federal assistance for a violation of an important family obligation.	
	Currently engaging in violent criminal activity.	Violent or hostile behavior towards PHA personnel	From date of eviction from federally-assisted	

			housing for lease violations.
Actively engaging in other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by others.	Previous other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor, or agent of the PHA.		From date of discovery for having committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
Actively engaging in other criminal activity that would threaten the health or safety of the PHA, owner, employee, contractor, subcontractor, or agent of the PHA.	Previously owed money to any PHA		From the date of the later of the act or termination of assistance for any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by others.
Owes money or rent to any PHA.			

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. Absence in this context means that no member of the family is residing in the unit.

If the family is absent from the unit for more than 60 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

Insufficient Funding [24 CFR 982.454]

OCHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If OCHA determines there is a shortage of funding, prior to terminating any HAP contracts, OCHA will determine if any other actions can be taken to reduce program costs. For example, lower payment standards or change Occupancy standards. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, OCHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, OCHA will inform the local HUD field office. OCHA will terminate the minimum number needed in order to reduce HAP costs to a level within OCHA's annual budget authority.

OCHA will terminate HAP contracts due to insufficient funding, in accordance with the following criteria and instructions:

The following program-type priority order will first be applied:

1. Non-special purpose vouchers

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2. Project-based assistance families
 3. Special purpose vouchers (VASH, NED, & FUP)

For each program type the following order will then be followed:

1. OCHA will stop selection from the waiting list (or referral list), discontinue the issuance of initial vouchers, and put previously issued initial vouchers on hold until funding is available.
2. OCHA will implement the provisions in accordance with the policies in 10.1.B of this Plan excluding elderly and disabled families.
3. OCHA will terminate families who have owed OCHA money. Within each group below, OCHA will terminate HAP contracts according to the date OCHA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, OCHA will rank the notices for that date using a random method.
 - First, OCHA will terminate families who owe OCHA money, are under repayment agreement, but have made at least one late payment.
 - Second, OCHA will terminate families who owe OCHA money but are not yet under repayment agreement.
 - Third, OCHA will terminate families who owe OCHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.
4. OCHA will terminate participants based on highest income (lowest housing assistance needed), excluding elderly and disabled families.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

OCHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give OCHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions OCHA may choose to take when it has discretion, and outlines the criteria OCHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(A)(3)]

The way in which OCHA terminates assistance depends upon individual circumstances. HUD permits OCHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract.
- Refusing to approve a request for tenancy or to enter into a new HAP contract.
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, OCHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)]. As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon OCHA request.

Repayment of Family Debts

If a family owes amounts to OCHA, as a condition of continued assistance, OCHA will require the family to repay the full amount or to enter into a repayment agreement, within 60 days of receiving notice from OCHA. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits OCHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

OCHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

OCHA will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug (including medical marijuana) or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- In the case of domestic violence by a household member who is no longer engaged in such behavior, whether the culpable household has successfully completed a supervised anger management program or has otherwise been rehabilitated successfully.
- OCHA will require the participant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program, or a supervised anger management program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, OCHA will determine whether the behavior is related to the disability. If so, upon the family's request, OCHA will determine whether alternative measures are appropriate as a reasonable accommodation. OCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING]

This section addresses the protections against termination of assistance that the Violence against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking. For general VAWA requirements and OCHA policies pertaining to

notification, documentation, and confidentiality, see section 16-IX of this plan, where definitions of key VAWA terms are also located.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. So do the limitations discussed under the next heading.)

First, VAWA provides that OCHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to OCHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives OCHA the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without, terminating assistance to, or otherwise penalizing the victim of the violence. [24 CFR 5.2009(a)].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of OCHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as OCHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of OCHA to terminate the assistance of a victim of domestic violence, dating violence, or stalking if OCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance. [24CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

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- The duration of the risk
 - The nature and severity of the potential harm
 - The likelihood that the potential harm will occur
 - The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize OCHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

In determining whether a program participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, OCHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking.
- Whether the threat is a physical danger beyond a speculative threat.
- Whether the threat is likely to happen within a short period of time.
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat.

If the participant wishes to contest OCHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, OCHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

OCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases OCHA will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives OCHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." [24 CFR 5.2009(a)] This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if OCHA chooses to exercise this authority, it must follow any

procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that OCHA will follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

OCHA will terminate assistance to a family member if OCHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, OCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to OCHA by the victim in accordance with this section and section 16-IX.D. OCHA will also consider the factors in section 12-II.D. Upon such consideration, OCHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If OCHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

HUD regulations require OCHA to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD- 52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

Whenever a family's assistance will be terminated, OCHA will send a written notice of termination to the family and to the owner of the family's unit. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other OCHA policies, or the circumstances surrounding the termination require. The notice will include the reasons for which assistance has been terminated.

When OCHA notifies an owner that a family's assistance will be terminated, OCHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that OCHA sends to the family will meet the additional HUD and OCHA notice requirements discussed in section 16-III.C of this plan.

Whenever OCHA decides to terminate a family's assistance because of the family's action or failure to act, OCHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and will request that a family member wishing to claim protection under VAWA notify OCHA within 15 calendar days.

Still other notice requirements apply in two situations:

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- If a criminal record is the basis of a family's termination, a copy of the record will accompany (or proceed) the termination notice, and a copy of the record will also be provided to the subject of the record [24 CFR 982.553(d)].
 - If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D will be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; OCHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c) AND FORM HUD-52641-A, TENANCY ADDENDUM]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking and the victim is protected from eviction by the Violence against Women Act of 2005 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, OCHA failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises).
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises.

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- Any violent criminal activity on or near the premises. Any drug-related (including medical marijuana) criminal activity on or near the premises.

However, in the case of criminal activity directly related to domestic violence, dating violence, or stalking, if the tenant or an immediate member of the tenant's family is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

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

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision.
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit.
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner must give the family 90 days notice at any time in order to terminate the lease.

12-III.C. EVICTION [24 CFR 982.310(E) AND (F) AND FORM HUD-52641-A, TENANCY ADDENDUM]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give OCHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give OCHA a copy of any eviction notice (see Chapter 5).

If the eviction action is finalized in court, the owner must provide OCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(H), 24 CFR 982.310(H)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action.
- The seriousness of the offending action.
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy.
- The extent of participation by the leaseholder in the offending action.
- The effect of termination of tenancy on household members not involved in the offending activity.
- The demand for assisted housing by families who will adhere to lease responsibilities.
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs (including medical marijuana) or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise

been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence against Women Act of 2005 (VAWA) and the confirming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if OCHA has no other grounds for termination of assistance, OCHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS
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Following is a listing of a participant family's obligations under the HCV program:

- The head of household (and spouse/co-mate) is responsible for reporting all family member changes in writing within 15 days of the occurrence. Forms to report changes are available at the OCHA office and at www.ochousing.org.
- The head of household (and spouse/co-mate) is responsible for reporting changes and will be required to repay the OCHA any overpayments of assistance made on behalf of the family as a result of not reporting changes that affect the amount of assistance received.
- Changes include increases and/or decreases in any source of income, benefits, child support, self-employment, cash, money received from family or friends, lottery or gambling winnings, loans, lump sums, or any other sources of money. Changes also include the start or end of employment or job training, and the acquisition or disposal of any assets (bank account, stocks, bonds, real estate, life insurance, etc.).
- The family must report any change in student status (full-time or part-time) or the start or end of school or training programs including those for dependent children 18 years or older.
- The family must report any change related to marriage, divorce, separation, reuniting, or child custody.
- The family must supply any information that OCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status within OCHA prescribed timeframes.
- All adult members age 18 years and older must attend OCHA-scheduled appointments. The family must supply any information requested by OCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition within OCHA prescribed timeframes.
- Any information supplied by the family must be true and complete.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
 - Damages beyond normal wear and tear will be considered to be damages that could be assessed against the security deposit.
- The family must allow OCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

OCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify OCHA and the owner in writing a minimum of 30 days before moving out of the unit or terminating the lease.

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to OCHA at the same time the owner is notified.

- The family must give OCHA a copy of any owner eviction notice within 15 days of receipt of the notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by OCHA. The family must notify OCHA in writing within 15 calendar days of the birth, adoption, or court-awarded custody of a child. The family must request OCHA approval to add any other family member as an occupant of the unit.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. OCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify OCHA in writing if any family member no longer lives in the unit within 15 days of the move-out.
- The family must not permit persons who are not a part of the household to use the assisted unit for their mailing address without OCHA approval.
- The family must abide by the OCHA visitor/guest policy: overnight visitors are allowed for a maximum of 15 consecutive days and cannot exceed a maximum of 30 calendar days in a 12-month period. A written request must be submitted to OCHA for approval for visitor stays that will exceed these limits.

Minors and college students who were part of the family, but who now live away from home during the school year and are not considered members of the household, may visit for up to 150 days per 12 (twelve) month period without being considered a member of the household as long as they have written permission of the owner/manager.

- If OCHA has given approval, a foster child or a live-in aide may reside in the unit. OCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when OCHA consent may be given or denied. For

policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).

- The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment in any form by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by OCHA to verify that the family is living in the unit or information related to family absence from the unit within the OCHA prescribed timeframe.
- The family must provide written notice to OCHA within 15 calendar days of the start of any extended absence from the assisted unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 consecutive calendar days.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity (including medical marijuana) or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and OCHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and OCHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless OCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher].
- The Orange County District Attorney's Office investigates program abuse. The family must cooperate with District Attorney staff at all times in Housing Authority investigations.

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in OCHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between OCHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including OCHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I: OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, PP. 2-4 TO 2-6]

Recruitment

OCHA will conduct owner outreach to ensure that owners are familiar with the HCV program and its advantages. OCHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the HCV program to property owners and managers.
- Contacting property owners and managers by phone or in-person.
- Holding owner recruitment/information meetings as needed.
- Participating in community based organizations comprised of private property and apartment owners and managers.
- Developing working relationships with owners and apartment associations.
- Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

OCHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

OCHA will provide owners with a handbook that explains the HCV program, including HUD and OCHA policies and procedures, in easy-to-understand language.

OCHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated OCHA contact person using a dedicated phone number referred to as the "owner hotline".
- Compose and distribute an owner newsletter with key information for the market, HUD changes in regulations, and updates and reminders of OCHA policies and procedures.
- Coordinating inspection and leasing activities between OCHA, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

Owners that express a willingness to consider leasing a unit to an eligible HCV program family or to help the HCV family find a unit will be encouraged to notify OCHA. OCHA will maintain a listing of available units and interested owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any

potential tenant. OCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See Chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA) (Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to OCHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the HCV program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. OCHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See Chapter 8 for a discussion of the HQS standards, as well as, the process for HQS inspections at initial lease-up and throughout the family's tenancy.

OCHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability, and the rent reasonableness determination process.

At initial lease-up of a unit, OCHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly-adjusted income [24 CFR 982.305(a)]. See Chapter 6 for a discussion of the calculation of family income, family share of rent, and HAP.

The dwelling lease must comply with all HCV program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease or included as an attachment. See Chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

OCHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) contract (Form HUD-52641). HUD prescribes the HAP contract

format. See Chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452,]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the housing assistance payments (HAP) contract and the lease.
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing to OCHA information required under the HAP contract.
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from OCHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease.
- Paying for utilities and services (unless paid by the family under the lease).

Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]. Complying with the Violence against Women Act of 2005 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1)).

13-I.D. OWNER QUALIFICATIONS

OCHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where OCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

OCHA will not approve the assisted tenancy if OCHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct OCHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

OCHA will not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. OCHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners

and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

OCHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of OCHA (except a participant commissioner).
- Any employee of OCHA, or any contractor, subcontractor or agent of OCHA, who formulates policy or who influences decisions with respect to the programs.
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs.
- Any member of the Congress of the United States.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

OCHA will refuse to approve a request for tenancy if OCHA becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity (including medical marijuana) or any violent criminal activity.
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
 - Threatens the right to peaceful enjoyment of the premises by other residents.
 - Threatens the health or safety of other residents, of employees of OCHA, or of owner employees or other persons engaged in management of the housing.
 - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises.
 - Has drug-related criminal activity (including medical marijuana) or violent criminal activity.
- The owner has a history or practice of renting units that fail to meet state or local housing codes.
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, OCHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, OCHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

OCHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., Recorded Grant Deed of Trust).

13-I.E. NON-DISCRIMINATION [HAP CONTRACT – FORM HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with OCHA.

The owner must cooperate with OCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with OCHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II: HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between OCHA and the owner of the dwelling unit occupied by a HCV program assisted family.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically the Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

- **Part A** of the contract includes basic contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, and signatures of OCHA and owner [HCV Guidebook, pp 11-10 and 11-11].

OCHA has not adopted a policy that defines when the housing assistance payment by OCHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

- **Part B** is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:
 - Lease of Contract Unit.
 - Maintenance, Utilities, and Other Services.
 - Term of HAP Contract.
 - Provision and Payment of Utilities and Appliances.
 - Rent to Owner: Reasonable Rent.
 - OCHA Payment to Owner.
 - Prohibition of Discrimination.
 - Owner's Breach of HAP Contract.
 - OCHA and HUD Access to Premises and Owner's Records.
 - Exclusion of Third Party Rights.
 - Conflict of Interest.
 - Assignment of the HAP Contract.
 - Written Notices.
 - Entire Agreement Interpretation.

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- **Part C** of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by OCHA. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, OCHA will make monthly payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP for the first month is prorated for a partial month.

The amount of HAP is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. OCHA will notify the owner and the family in writing of any changes in HAP.

HAP can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP paid by OCHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the OCHA HAP payment, should be equal to the contract rent specified in the lease (the rent to owner).

The family is not responsible for payment of OCHA's HAP, and OCHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and HAP. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from OCHA, the excess amount must be returned immediately. If OCHA determines that the owner is not entitled to all or a portion of the HAP, OCHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other HCV program contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from OCHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the

premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

OCHA is responsible for making payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if OCHA fails to make payment on time.

For a new lease only, if the first payment is late by 60 days or more, the owner may request, in writing, a late fee not to exceed \$25.00. If the late payment was the result of OCHA not having received all required signed documents, this late fee becomes void.

Penalties for late HAP can only be imposed if:

- The penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants.
- It is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families.
- The owner charges the assisted family for late payment of the family's share of the rent.

OCHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond OCHA's control. In addition, late payment penalties are not required if OCHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

OCHA will continue making payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

OCHA payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, OCHA will continue to make payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The owner must inform OCHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform OCHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide OCHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, OCHA will continue to pay HAP to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform OCHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS.
- If the owner has violated any obligation under any other HAP contract under Section 8.
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.
- If the owner has engaged in drug-related criminal activity (including medical marijuana).
- If the owner has committed any violent criminal activity.

If OCHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

OCHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of payments, abatement or reduction of the HAP, termination of the payment, or termination the HAP contract. OCHA may also obtain additional relief by judicial order or action.

OCHA will notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. OCHA will provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

Before OCHA invokes a remedy against an owner, OCHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, OCHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, OCHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease.
- The lease expires.
- OCHA terminates the HAP contract.

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- OCHA terminates assistance for the family.
 - The family moves from the assisted unit. In this situation, the owner may be entitled to keep the housing assistance payment for the month when the family moves out of the unit, depending on the circumstances.
 - 180 calendar days have elapsed since OCHA made the last housing assistance payment to the owner.
 - The family is absent from the unit for longer than the maximum period permitted by OCHA.
 - If the sole member of the household leaves the household for more than 60 consecutive days, the unit will not be considered to be their principal place of residence and the housing assistance payment for the unit will be terminated unless the participant requests an extension by submitting documentation from a knowledgeable medical source that they will return within a maximum of 180 days.
 - The Annual Contributions Contract (ACC) between OCHA and HUD expires.
 - OCHA elects to terminate the HAP contract.

OCHA may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454].
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8.
- The unit does not meet HQS [24 CFR 982.404] – see Chapter 8.
- The family breaks up [HUD Form 52641] – see Chapter 3.
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If OCHA terminates the HAP contract, OCHA will give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP may be made under that contract [HCV Guidebook pg.15-4].

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which OCHA gives written notice to the owner. The owner may not be entitled to any housing assistance payment after this period, and must return to OCHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

13-II.F. CHANGE IN OWNERSHIP - ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of OCHA.

An owner under a HAP contract must notify OCHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by OCHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that OCHA finds acceptable. The new owner must provide OCHA with a copy of the executed agreement.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

OCHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

After receipt of the owner's request, OCHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to OCHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed.
- Original copy of the owner's IRS Form W-9, Declaration of Ownership, Request for Taxpayer Identification Number and Certification, or the social security card of the new owner.
- The effective date of the HAP contract assignment.
- A written agreement to comply with the terms of the HAP contract.
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents by the required date, OCHA will terminate the HAP contract with the old owner and not approve the contract with the new owner.

If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, OCHA will process the leasing in accordance with the policies in Chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

OCHA is committed to ensuring that subsidy funds made available to OCHA are spent in accordance with HUD requirements.

This chapter covers HUD and OCHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents OCHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures OCHA will take when errors or program abuses are found.

Part III: Conducting Business With Core Values and Ethical Standards. This part describes the protocols OCHA will follow to adhere to rules for conflict of interest and code of conduct.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. OCHA is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. OCHA is further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

OCHA anticipates that the vast majority of families, owners, and OCHA employees intend to and will comply with Housing Choice Voucher (HCV) program requirements and make reasonable efforts to avoid errors.

To ensure that OCHA’s HCV program is administered effectively and according to the highest ethical and legal standards, OCHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

OCHA will discuss HCV program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

OCHA will provide each applicant and participant with the publication a copy of “Is Fraud Worth It?” (*form HUD-1141-OIG*) that explains the types of actions a family must avoid and the penalties for program abuse.

OCHA will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, OCHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

OCHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key OCHA forms and form letters that request information from a family or owner.

OCHA staff will be required to review and explain the contents of all HUD-required and OCHA-required forms prior to requesting family member signatures.

OCHA will provide each OCHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

Quality Control and Analysis of Data

In addition to the SEMAP quality control requirements, OCHA will employ a variety of methods to detect errors and program abuse.

OCHA routinely will use available sources of up-front income verification, including HUD's EIV system, to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information. OCHA will compare family-reported income and expenditures to detect possible unreported income.

Quality control checks will be performed on all new leases, change of units, rent increases or decreases, and change of ownership leasing transactions.

Independent Audits and HUD Monitoring

OCHA will use the results reported in any independent audit (IPA) or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of OCHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

OCHA will encourage staff, program participants, and the public to report possible program abuse.

14-I C. STEPS OCHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

OCHA staff will utilize various methods and practices to prevent program abuse, non-compliance, and willful violations of program rules by applicants, assisted families, and owners. The policy objective is to emphasize education as the primary means to obtain compliance by program families. OCHA will provide the following:

- Things You Should Know: This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify OCHA's expectations for cooperation and compliance.
- Program Orientation Session (Briefing): OCHA staff will conduct mandatory orientation sessions for all applicants, either prior to, or upon issuance of a voucher. At the conclusion of all program orientation sessions, the family representative will be required to sign a briefing declaration to confirm that all rules and pertinent regulations were explained to them.
- Owner/Agent Orientation: Orientation sessions will be conducted with new HCV program owners/agents prior to, or upon, execution of contract, in order to assure an understanding of owner, family, and OCHA obligations, and to prevent improper or illegal practices by owners/agents.
- Participant Counseling: OCHA staff will routinely offer tenant counseling as a part of every re-certification interview in order to clarify any confusion pertaining to HCV program rules and requirements.

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- Review and Explanation of Voucher and other Supplemental Forms: Staff will explain all required forms and review the contents of all re-certification documents prior to signature.
 - Use of Instructive Signs and Warnings: Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with HCV program rules and to warn about penalties for fraud and abuse.

OCHA staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families and conduct the following:

- File Reviews: Prior to initial eligibility, and at the completion of all subsequent re-certifications, at least 10% of the family files will be reviewed. Such reviews shall include, but are not limited to:
 - Changes in reported Social Security numbers or dates of birth.
 - Document authenticity.
 - Ratio between reported income and expenditures.
 - Review of signatures.
- Observation: OCHA staff, including inspectors, will maintain high awareness of circumstances, which may indicate program abuse or fraud. OCHA staff may review public record bulletins.
- Owner Audits: OCHA will conduct quality control checks of HCV program owners to ensure proof of ownership of the assisted unit.
- State Wage Data Record Keepers: Inquiries to the applicable Employment Commission under Public Law 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.
- Credit Bureau Inquiries: Credit bureau inquiries may be made (with proper authorization by the tenant) in the following circumstances:
 - When an allegation is received by OCHA wherein unreported income sources are disclosed.
 - When a family's expenditures drastically exceed their reported income and no plausible explanation is given.

OCHA will discuss program responsibilities and prohibitions of abusing the program with staff at least annually.

- Ethics, code of conduct, and prohibitions against program abuse will be discussed with staff at initial hire and at each annual performance evaluation.
- OCHA will maintain sufficient systems for quality control, such as supervisory review of a random sample of staff determinations and staff rotation of assignments, where feasible, to assure adherence to program requirements.
- Periodically, OCHA may send written communications or conduct training for staff to reinforce the intent of HUD and OCHA to eliminate program abuse.

14-I.D. INVESTIGATING ERRORS AND PROGRAM ABUSE

When OCHA Will Investigate

OCHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. OCHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

OCHA may investigate possible instances of error or abuse using all available OCHA records and public records. If necessary, OCHA will require HCV program families to give consent to the release of additional information.

Analysis and Findings

OCHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation OCHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to OCHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse will be corrected prospectively. Whether OCHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, OCHA will take into consideration the following:

- The seriousness of the offense and the extent of participation or culpability of individual family members.
- Any special circumstances surrounding the case.
- Any mitigating circumstances related to the disability of a family member.
- The effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, OCHA will take into consideration the following:

- The seriousness of the offense.
- The length of time since the violation has occurred
- The effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

OCHA will inform the relevant party in writing of its findings and remedies within 15 calendar days of the conclusion of the investigation. The notice will include the family's right to appeal the results through the informal review or hearing process, if applicable. (see Chapter 16)

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER OR OVERPAYMENTS

A subsidy under or overpayment includes (1) an incorrect Housing Assistance Payment (HAP) to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, OCHA will correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse OCHA or OCHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows OCHA to use incorrect information provided by a third party.

Family Reimbursement to OCHA [HCV GB pp. 22-12 to 22-13]

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. 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.

OCHA Reimbursement to Family [HCV GB p. 22-12]

OCHA will not reimburse the family for any underpayment of assistance when the family clearly causes the underpayment.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to OCHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of family program abuse:

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- Payment to the owner in excess of amounts authorized by OCHA for rent, security deposit, and additional services.
 - Offering bribes or illegal gratuities to OCHA Board of Commissioners, employees, contractors, or other OCHA representatives.
 - Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to OCHA on the family's behalf.
 - Use of a false name or the use of falsified, forged, or altered documents.
 - Intentional misreporting of family information or circumstances (e.g. income, family composition).
 - Omitted facts that were obviously known by a family member (e.g., not reporting employment income).
 - Admission of program abuse by an adult family member.

OCHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family OCHA may, at its discretion, impose any of the following remedies.

- OCHA may require the family to repay excess subsidy amounts paid by OCHA, as described earlier in this section.
- OCHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- OCHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- OCHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to OCHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to OCHA any excess subsidy received. OCHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, OCHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

In cases where the owner has received excess subsidy, OCHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to OCHA [Title 18 U.S.C. Section 1001].
- Violate any provision of the HAP contract.
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)].

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by OCHA.
- Charging a security deposit other than that specified in the family's lease.
- Charging the family for services that are provided to unassisted tenants at no extra charge.
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit.
- Knowingly accepting incorrect or excess housing assistance payments.
- Offering bribes or illegal gratuities to OCHA Board of Commissioners, employees, contractors, or OCHA representatives.
- Offering payments or other incentives to an HCV program family as an inducement for the family to make false or misleading statements to OCHA.
- Residing in the unit with an assisted family.

Remedies and Penalties

When OCHA determines that the owner has committed program abuse, OCHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any OCHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. OCHA CAUSED ERRORS OR PROGRAM ABUSE

OCHA caused incorrect subsidy determinations include:

- Failing to correctly apply HCV program rules regarding family composition, income, assets, and expenses.
- Assigning the incorrect voucher size to a family.
- Errors in calculation.
- Failing to process a reported change in a timely manner.

OCHA Reimbursement to Family or Owner

OCHA will reimburse an owner or family for any underpayment of subsidy when the underpayment was the result of staff-caused error.

Prohibited Activities

Any of the following will be considered evidence of program abuse by OCHA staff:

- Failing to comply with any HCV program requirements for personal gain or to favor an applicant, participant, owner, vendor, contractor, or other person. This includes but is not limited to: approval of units that do not meet HQS or intentional incorrect TTP or HAP calculations, incorrect eligibility determinations, and falsifying or altering documents.
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner.
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to OCHA.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of OCHA activities, policies, or practices.
- Misappropriating or misusing HCV program funds.
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program.
- Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. CRIMINAL PROSECUTION

When OCHA determines that program abuse by an owner, family, or OCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, OCHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

When OCHA determines that program abuse by an OCHA staff member has occurred, OCHA will take whatever action is appropriate under the direction of Orange County Human Resources, which may include staff reprimand and/or termination of employment.

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

PART III: CONDUCTING BUSINESS WITH CORE VALUES AND ETHICAL STANDARDS

14-III.A. CONFLICT OF INTEREST [24 CFR 982.161]

Neither OCHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of OCHA (except a participant commissioner).
- Any employee of OCHA, or any contractor, subcontractor or agent of OCHA, who formulates policy or who influences decisions with respect to the programs.
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs.
- Any member of the Congress of the United States.

Any member of the classes described above must disclose their interest or prospective interest to OCHA and to HUD. The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

14-III.B. CODE OF ETHICS AND CONDUCT

OC Community Resources/Orange County Housing Authority (OCHA) has an established department policy governing employee conduct and activities during working and non-working hours to ensure their ability to serve the county at satisfactory levels of performance and their integrity is not impaired. This policy incorporates by reference the “County of Orange Employee Code of Conduct” adopted by the Board of Supervisors and is applicable to all employees.

No employee shall accept or solicit any gift, gratuity, regard, loan, entertainment or anything of value, which might tend or appear to influence directly or indirectly actions of the employee or other employees of the department or the county, or which might tend to cast an adverse reflection on the department, county, or any employee.

No employee shall engage in outside employment or activities contributing to mental or physical fatigue, which adversely affect the job performance of county-related work or cause absenteeism.

No employee shall engage in outside employment or activities, which constitute conflicts of interest for private gain or advantage, or private gain or advantage of another. Generally, employment or activities outside the department are acceptable except for the following:

- Employment that involves a person, activity, firm or product, which contracts with or is subject to regulation, inspection or enforcement by the department.
- Employee uses county time, facilities, equipment, badge, or uniform for private gain or advantage, or private gain or advantage of another.

If any OCHA staff has knowledge of a conflict of interest situation or other misconduct by another OCHA staff member, this shall be immediately reported for investigation resulting in disciplinary action.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

OCHA permits a participant family to use the following special housing types to receive rental assistance within OCHA's jurisdiction:

Part I: Single Room Occupancy

Part II: Congregate Housing (Assisted Living Facilities)

Part III: Shared Housing

Part IV: Manufactured Homes (including manufactured home space rental)

Part V: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

Single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of a single occupant.

The occupant may be required to share sanitary and/or food preparation facilities with SRO residents.

A separate standard lease and housing assistance payment (HAP) contract is executed for each unit receiving Housing Choice Voucher (HCV) assistance.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of OCHA's 0-bedroom payment standard.

A utility allowance does not apply to SRO housing types.

The amount of HAP assistance for an SRO assisted unit occupant in an SRO facility is the lower of the SRO payment standard amount minus the tenant's total portion (TTP) or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 are modified as follows for SRO housing types:

- *Access:* Entry door to the SRO unit must have a working privacy lock. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
- *Sanitary Facilities:* At least one flushing toilet that can be used in privacy, a lavatory basin, and a fully operable bathtub or shower must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use

by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, HQS applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING (ASSISTED LIVING FACILITIES)

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing/assisted living facility is intended for use by elderly persons or persons with disabilities. An assisted living facility contains a shared central kitchen and dining area, in addition to a private living area for the assisted resident that includes a living room, a bedroom and a bathroom. Rental assistance applies only to the bedroom space occupied by the tenant. Other costs associated with housekeeping, food service/preparation and etc. are not eligible expenses to be included in determining amount of rental assistance.

OCHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by the elderly and persons with disabilities.

When providing HCV program assistance in assisted living housing, a separate and standard lease and HAP contract are executed for each assisted family.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or kitchen, if a kitchen is provided) OCHA will use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), OCHA will use the 1-bedroom payment standard.

The payment standard for an individual unit in a congregate housing/assisted living facility is:

- 75% of OCHA's 0-bedroom payment standard
- If two persons occupy the same sleeping room, 50% of the 1-bedroom payment standard will be used to calculate the tenant's portion of rent.

A utility allowance does not apply to assisted living housing types.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to assisted living housing with the following modifications:

- Assisted living housing unit must have:
 - A refrigerator of appropriate size in the private living area of each resident.
 - Central kitchen and dining facilities located within the premises and accessible to the residents.
 - Food service for the residents that is not provided by the residents themselves.
- HQS applicable to lead-based paint do not apply.

PART III: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-III.A. OVERVIEW

HCV program individuals may utilize the assistance to occupy a bedroom in a single housing unit. The unit may be a house or an apartment. Assisted individuals must have access to common space areas that may include a living room, family room, kitchen and laundry facilities. An assisted individual may share a bedroom with another assisted/unassisted person. The owner of the single family home may reside in the unit, but housing assistance will not be paid on the owner's behalf. The resident owner may not be related by blood or marriage to the assisted person(s). Shared housing is only available to one-bedroom voucher holders.

OCHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

A separate lease and a standard HAP contract are executed for each assisted person(s).

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for shared housing is 75% of OCHA's 0-bedroom payment standard.

A utility allowance does not apply to shared housing types.

If more than one bedroom in the same unit will be assisted under the provisions of shared housing, the total contract rents must not exceed the pro-rated amount of the payment standard for the applicable bedroom size. The payment standard used is the lower of the payment standard for the family size or the pro-rated share of the payment standard for the bedroom size of the shared single family housing type.

The contract rent must meet the rent reasonableness test.

15-III.C. HOUSING QUALITY STANDARDS

OCHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under lease, meets HQS.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below:

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART IV: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624]

15-IV.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV program assisted families may occupy manufactured homes in two different ways:

- A family can choose to rent a manufactured home already installed on a space. In this instance HCV program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.
- OCHA also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV program assistance with the rent for the space.

15-IV.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-IV.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Payment Standards

The fair market rent (FMR) for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. OCHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

OCHA has established one standard utility allowance that is applicable to all mobile home space rents. OCHA reviews the mobile home utility allowance annually to determine if any changes in the rate are warranted.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the HCV program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter, OCHA will determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. OCHA will consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the Manufactured Home Park or elsewhere.

15-IV.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART V: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-V.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option will be an existing participant in the HCV program.

15-V.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance:

- The family must have been admitted to the Housing Choice Voucher program.
- The family is not within the initial one-year period of a HAP contract.
- The family has no family-caused HQS violations within the past year.
- The family has not committed any serious or repeated violations of their OCHA-assisted lease within the past year.
- The family does not owe money to OCHA.
- The family must qualify as a first-time homeowner.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family. Families will be considered "continuously employed" if the break in employment does not exceed two months.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, OCHA will grant an exemption from the employment requirement if OCHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.

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- No family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
 - The family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-V.C. SELECTION OF FAMILIES [24 CFR 982.626]

Families will be selected according to the date and time their application for homeownership was submitted.

Preference will be given to elderly and disabled families, families who have participated in OCHA's Family Self-Sufficiency program (FSS) for a minimum of one year or longer, and FSS graduates.

All families must meet eligibility requirements as defined in Section 15-VII.B of this plan.

15-V.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, OCHA will determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
 - A public housing or Indian housing unit.
 - A unit receiving Section 8 project-based assistance.
 - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services.
 - A college or other school dormitory.
 - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a condominium project.
- The unit must have been inspected by OCHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a manufactured home, the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

OCHA will not approve the unit if OCHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-V.E. ADDITIONAL OCHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

The family will be allowed 120 days to locate a unit and submit a sales contract to OCHA for review. OCHA may grant an extension period for good cause.

The family will be allowed an additional 120 days to close escrow on the home. OCHA may grant an extension period for good cause.

Approval for each extension type will be determined on a case-by-case basis and will not exceed a total of 120 days each. The maximum amount of time a family will be given to locate and complete the purchase of a home under the Homeownership Program is 365 days.

All requests for extensions must be submitted in writing to OCHA prior to the expiration date of the period for which the extension is being requested. The family will be notified in writing within 15 calendar days of OCHA's decision to approve/disapprove a request for an extension.

The family will continue to receive HCV program rental assistance until they vacate their assisted unit and move into a purchased home. If the family is unable to purchase a home within the maximum allotted time, the family will continue to receive HCV program rental assistance.

15-V.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete OCHA's pre-assistance homeownership and housing counseling program. OCHA will require completion of the following topics:

- Home maintenance (including care of the grounds).
- Budgeting and money management.
- Credit counseling.
- How to negotiate the purchase price of a home.
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing.
- How to find a home, including information about homeownership opportunities, schools, and transportation in OCHA's jurisdiction.
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies.

Families will be encouraged but not be required to participate in ongoing counseling after commencement of homeownership assistance.

15-V.G. HOME INSPECTIONS, CONTRACT OF SALE, AND OCHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

- OCHA will schedule an HQS inspection within 15 calendar days from the date a family submits a copy of their Purchase Offer/Contract.
- OCHA will conduct an in-home inspection to determine that the unit passes HQS prior to the commencement of monthly homeownership assistance payments. Any failed items must be repaired prior to receiving final approval.
- In addition, the family must contract with a licensed home inspector. The home inspector must prepare a written report of the results of inspecting the home's structural system including, the foundation, framing, interior and exterior walls, roofing, plumbing, electrical and heating system.
- The family must submit a copy of the inspection report prepared by the licensed inspector for OCHA to review. Based upon the report, OCHA may disqualify the purchase of the home under the provisions of homeownership, if the report determines that the condition of the unit has substantial defects requiring extensive and costly repairs. The family will receive notification of OCHA disapproval of the selected home for purchase.
- Except for initial and special inspections, OCHA will not conduct annual HQS inspections while the family is receiving homeownership assistance.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give OCHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser.
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.
- Provide that the purchaser is not obligated to pay for any necessary repairs.
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, OCHA may deny approval of a seller for the same reasons OCHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-V.H. FINANCING [24 CFR 982.632]

As a check against predatory lending, OCHA will review the financing of each purchase transaction, including estimated closing costs. OCHA will review the loans for features, such as

balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. OCHA also may not approve “seller financing” or “owner-held” mortgages. Beyond these basic criteria, OCHA will rely on the lenders to determine that the loan will be affordable to program participants.

The mortgage the family applies for will require a minimum down payment of at least 3% of the sale price with 1% of the down payment coming from the purchaser’s personal funds.

Financing for purchase of a home under the HCV Homeownership Program must comply with generally accepted private sector underwriting standards.

15-V.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, OCHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to OCHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to OCHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by OCHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify OCHA before moving out of the home.
- The family must notify OCHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

15-V.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer.

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- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made.
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.
- In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-V.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, OCHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the HCV program.

OCHA's housing assistance payment will be paid directly to the lender. If the assistance payment exceeds the amount due to the lender, OCHA will pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

OCHA will allow the following homeownership expenses:

- Monthly homeownership payment includes principal and interest on initial mortgage debt, taxes and insurance, and any mortgage insurance premium, if applicable.
- OCHA's utility allowance for the home, based on the current HCV program utility allowance schedule.
- OCHA's allowance for maintenance expenses; monthly maintenance allowance will be the annual maintenance, divided by twelve. The annual maintenance allowance will be set at one half of one-percent (.5 %) of the purchase price of the home.
- For a condominium unit, condominium operating charges, or maintenance fees assessed by the condominium homeowner association.

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- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may be incurred by the family to finance costs needed to make the home accessible for such person, if OCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.

15-V.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(B) AND (C), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and OCHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill OCHA as the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, is acceptable. The receiving PHA must promptly notify OCHA as the initial PHA, if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-V.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

OCHA may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, OCHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- OCHA will deny the family permission to move within a 12-month period.

OCHA will deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family has defaulted on an FHA-insured mortgage.
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-V.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, OCHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

OCHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

OCHA will terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

OCHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, OCHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, OCHA may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12-II.F.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in nine parts as described below:

Part I: Administrative Fee Reserve. This part describes OCHA policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as, how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to OCHA. This part describes policies for recovery of monies that OCHA has overpaid on behalf of families, or to owners, and describes the circumstances under which OCHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect OCHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies OCHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes OCHA responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes OCHA policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

OCHA will maintain an administrative fee reserve for the HCV program to pay program administrative expenses in excess of administrative fees paid by HUD. If funds in the administrative fee reserve are not needed to cover OCHA administrative expenses, OCHA may use these funds for other housing purposes if permitted by federal, state and local law.

OCHA will comply with federal restrictions such as the Consolidated Appropriations Act, 2008 (Public Law 110-161), which restricts unused administrative fee from 2008 funding (and 2004-2007 funding). Such funds will be moved into a Net Unrestricted Assets account and used only for Section 8 tenant-based rental assistance, including related development activities. Such activities include modification for accessibility purposes and development of project-based voucher units.

HUD may prohibit use of funds in the administrative fee reserve, and may direct OCHA to use funds in the reserve to improve administration of the HCV program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires OCHA's Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee reserve will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$50,000 per occurrence without the prior approval of OCHA Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

This part discusses how OCHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family, can receive (application of the payment standards is discussed in Chapter 6).
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in OCHA's offices during normal business hours. This information is also available on OCHA's webpage on the County of Orange – OC Community Services website – www.ochousing.org. Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

OCHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, CHAPTER 7]

OCHA will establish payment standard amounts for areas within OCHA's jurisdiction. The payment standard sets the maximum subsidy payment a family can receive from OCHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions, FMRs are set at the 40th percentile of rents in the market area. Unless HUD grants an exception, OCHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

OCHA's comprehensive payment standard schedule includes all bedroom sizes, mobile home space rent and single room occupancy/shared housing. In addition, OCHA has established multiple payment standard schedules for one, two and three-bedroom units to expand housing choices in distinctly different market areas. The highest payment standards are designated as "Restricted" and are used in 13 "high rent" cities and adjacent unincorporated areas. Another set of payment standards will be applied for a "Central" group of cities that include Costa Mesa, Fountain Valley, Huntington Beach, and Yorba Linda. A different set of "basic" payment standards applies to the remaining cities.

Updating Payment Standards

OCHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range", OCHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

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- **Funding Availability:** OCHA will review the budget to determine the impact that projected subsidy adjustments will have on funding available for the program and the number of families served. OCHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.
 - **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, OCHA will consider increasing the payment standard. In evaluating rent burdens, OCHA will not include families renting a larger unit than their voucher unit size.
 - **Quality of Units Selected:** OCHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
 - **Changes in Rent to Owner:** OCHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.
 - **Unit Availability:** OCHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families and higher-cost cities.
 - **Lease-up Time and Success Rate:** OCHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on October 1st of every year or no later than December 1st.

Exception Payment Standards [982.503(c)]

OCHA must request HUD approval to establish payment standards that are higher than the basic range.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii) , 24 CFR 982.505(d), Notice PIH 2010-26]

Unit-by-unit exceptions to OCHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect OCHA's payment standard schedule.

When needed as a reasonable accommodation, OCHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. OCHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

A family that requires a reasonable accommodation for a higher payment standard may request this at the time the Request for Tenancy Approval (RTA) is submitted. The family must

document the need for the exception. In order to approve an exception, or request an exception from HUD, OCHA will determine that:

- There is a shortage of affordable units that would be appropriate for the family.
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income.
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, OCHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows OCHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, OCHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants.
- OCHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR.
- OCHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, OCHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of OCHA's jurisdiction within the FMR area.

OCHA's success rate has always exceeded the 75% threshold with its multiple payment standard schedules and has not needed or qualified for "success rate payment standards".

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

In the event of a funding shortfall, OCHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

OCHA's Utility Allowance Schedule is used in determining family share and OCHA subsidy. OCHA maintains a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection, sewer fees and water.

The utility allowance schedule is based upon the current utility rates charged to qualified low-income households under the power companies' CARE program, which charges rates that are 20% less than the rates charged to other residential customers who occupy housing of similar size and type in the same locality.

The utility allowance schedule includes an allowance for tenant-paid utilities and services that are necessary in the Orange County region, to provide housing that complies with housing

quality standards. Costs for telephone, cable/satellite television, and Internet services are not included in the utility allowance schedule.

OCHA's Utility Allowance Schedule assigns a rate, per bedroom size of the assisted unit, for tenant-paid utilities for: 1) Gas: cooking, space heating, and water heating; 2) Electric: basic electric allowance for lighting, wall outlets, air conditioning, and refrigerator; electric cooking, electric space heating and electric water heating, 3) An allowance for other tenant-paid services include: water, sewer & trash collection, tenant owned refrigerator, and tenant-owned stove.

Air Conditioning

OCHA has included an allowance for air-conditioning in its schedule for basic electric.

Reasonable Accommodation

OCHA may approve a utility allowance amount higher than shown on OCHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

OCHA reviews its schedule of utility allowances annually, and will revise the schedule if there has been a change of 10 percent or more in any utility rate in the previous year.

The primary power companies serving the Orange County area are Southern California Edison and Southern California Gas. Tariff Rate schedules are used as the source for performing the annual utility review. If an adjustment in OCHA's Utility Allowance Schedule is required, the difference between rates is calculated as a percentage increase/decrease and is applied to each utility allowance affected by the change.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When OCHA makes a decision that has a negative impact on a family, the family may be entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. [Federal Register 60,no. 127 (July 1995): 344690]

Decisions Subject to Informal Review

OCHA will give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on OCHA waiting list.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability procedures.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by OCHA.
- General policy issues or class grievances.
- A determination of the family unit size under OCHA subsidy standards.
- OCHA determination not to grant approval of the tenancy.
- OCHA determination that the unit is not in compliance with the HQS.
- OCHA determination that the unit is not in accordance with the HQS due to family size or composition.

Notice to the Applicant [24 CFR 982.554(a)]

OCHA will give an applicant prompt notice of a decision denying assistance. The notice will contain a brief statement of the reasons for OCHA’s decision, and will also state that the applicant may request an informal review of the decision. The notice will describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to OCHA either in person or by first class mail, by the close of the business day, no later than 15 calendar days from the date of OCHA's denial of assistance notice.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the initial decision of OCHA.

Informal Review Decision [24 CFR 982.554(b)]

In rendering a decision, OCHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. OCHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and HUD requires the denial, OCHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, OCHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

A notice of Informal Review decision shall be provided in writing to the applicant within 30 calendar days of receipt of the applicant's request for an Informal Review. The written notice shall include a brief explanation of the reasons for the final decision.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

OCHA will offer an informal hearing for certain OCHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to OCHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether OCHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations, and OCHA policies.

OCHA will not terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease.
- Terminating housing assistance payments under an outstanding HAP contract.
- Refusing to process or provide assistance under portability procedures.

Decisions Subject to Informal Hearing

Circumstances for which OCHA will give a participant family an opportunity for an informal hearing are as follows:

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- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
 - A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the OCHA utility allowance schedule.
 - A determination of the family unit size under OCHA's subsidy standards.
 - A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under OCHA's subsidy standards, or OCHA's determination to deny the family's request for exception from the standards.
 - A determination to terminate assistance for a participant family because of the family's actions or failure to act.
 - A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted OCHA policy and HUD rules.
 - A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)].

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by OCHA.
- General policy issues or class grievances.
- Establishment of OCHA schedule of utility allowances for families in the program.
- OCHA's determination not to approve an extension or suspension of a voucher term.
- OCHA's determination not to approve a unit or tenancy.
- OCHA determination that a unit selected by the applicant is not in compliance with the HQS.
- OCHA's determination that the unit is not in accordance with HQS because of family size.
- A determination by OCHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

OCHA will only offer participants the opportunity for an informal hearing when required to by HUD regulations.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

In cases when a participant's rental assistance is being terminated or reduced, OCHA will give the participant a written notice of the determination, which will describe:

- The reason(s) for the termination or reduction in benefits.
- The date the proposed action will take place.
- The procedures for requesting an informal hearing if the family does not agree with the termination (or reduction).
- The timeframe for requesting an informal hearing.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

A request for an informal hearing must be made in writing and delivered to OCHA either in person or by first class mail, by the close of the business day, 15 calendar days from the date of OCHA's notice to terminate assistance.

OCHA will schedule and send written notice of the informal hearing to the family within a reasonable amount of time.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict in a meeting time with another agency, a doctor, or a company, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made in writing prior to the hearing date.

OCHA will request documentation of the "good cause" prior to rescheduling the hearing. If the family does not appear at the scheduled time, or is more than 30 (thirty) minutes late and has not arranged in advance to reschedule the informal hearing, the participant will be declared "in default". OCHA may set aside the default decision and reschedule the informal hearing only upon a showing of good cause (as previously defined) for the participant's absence. In this event, the informal hearing will be rescheduled only one time.

If the head of household is incarcerated or otherwise unavailable, the family must designate another adult to appear at the informal hearing.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

The family must request discovery of OCHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date. The family will be allowed to copy any documents related to the hearing at a cost of \$.15 per page.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

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

A minimum of four days advance notice should be made to OCHA if the legal counsel or other representative will attend the hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by OCHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision. OCHA utilizes impartial hearing officers procured through the County of Orange.

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- OCHA representative(s) and any witnesses for OCHA.
- The participant and any witnesses for the participant.
- The participant's counsel or other representative.

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- Any other person approved by OCHA as a reasonable accommodation for a person with a disability.

Conduct at Hearings

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

In accordance with the Informal Hearing Notice, all hearings will be recorded for administrative record purposes.

Evidence [24 CFR 982.555(e)(5)]

OCHA and the family will be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are five categories of evidence.

- *Oral evidence*: the testimony of witnesses.
- *Documentary evidence*: a writing, which is relevant to the case, for example, a letter written to OCHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- *Demonstrative evidence*: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- *Real evidence*: A tangible item relating directly to the case.
- *Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either OCHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing will issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

In rendering a decision, the hearing officer will consider the following matters:

- *OCHA Notice to the Family*: The hearing officer will determine if the reasons for OCHA's decision are factually stated in the Notice.

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- *Discovery*: The hearing officer will determine if OCHA and the family were given the opportunity to examine any relevant documents in accordance with OCHA policy.
 - *OCHA Evidence to Support OCHA Decision*: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support OCHA's conclusion.
 - *Validity of Grounds for Termination of Assistance (when applicable)*: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and OCHA policies. If the grounds for termination are not specified in the regulations or in compliance with OCHA policies, then the decision of OCHA will be overturned.

The hearing officer will issue a written decision to the family and OCHA no later than 15 calendar days after the hearing. The report will contain the following information:

- Hearing information:
 - Name of the participant.
 - Date, time and place of the hearing.
 - Name of the hearing officer.
 - Name of OCHA representative.
 - Name of family representative (if any).
- Background: A brief, impartial statement of the reason for the hearing.
- Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold OCHA's decision.
- Order: The hearing report will include a statement of whether OCHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct OCHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct OCHA to restore the participant's program status.

Procedures for Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an

appointment or deadline ordered by the hearing officer, a decision will be rendered and another hearing will not be granted.

OCHA Notice of Final Decision [24 CFR 982.555(f)]

OCHA will mail a “Notice of Final Decision” including the hearing officer’s determination, to the participant and their representative. This Notice is sent by first-class mail, as well as, by certified mail with return receipt. The original “Notice of Final Decision” along with the return receipt will be retained in the tenant’s file.

The time within which judicial review of the final determination may be sought is governed by California Code of Civil Procedure section 1094.6.

OCHA is not bound by the decision of the hearing officer for matters in which:

- OCHA is not required to provide an opportunity for a hearing.
- Exceed the authority of the hearing officer.
- Conflict with or contradict HUD regulations, requirements.
- Are otherwise contrary to Federal, State or local laws, or OCHA’s Administrative plan.

If OCHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, OCHA will promptly notify the family of the determination and the reason for the determination.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while OCHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or OCHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens will advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].

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- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
 - That the family has a right to request an informal hearing with OCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
 - For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When OCHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, OCHA will notify the family in writing of the results of the USCIS secondary verification within 15 calendar days of receiving the results.

The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The family must make a request for an appeal in writing directly to the USCIS.

The family must provide OCHA with a copy of the written request for appeal and the proof of mailing within 15 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

OCHA will send written notice to the family of its right to request an informal hearing within 15 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that OCHA provide an informal hearing. The request for an informal hearing must be made either within 30 calendar days of receipt of OCHA's notice of denial, or within 30 calendar days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

OCHA will provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must request a review of their file and discovery of OCHA documents no later than 12:00 p.m. on the business day prior to the informal hearing. The family will be allowed to copy any documents related to the informal hearing at a cost of \$.15 per page.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family will also be provided the opportunity to refute evidence relied upon by OCHA, and to confront and cross-examine all witnesses on whose testimony or information OCHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing.

Hearing Decision

OCHA will provide the family with a written final decision, based solely on the facts presented at the hearing, within 15 calendar days of the date of the informal hearing. The decision will state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

OCHA will retain for 3 years all hearing-related documents and recordings in accordance with its records retention policy. OCHA will retain for 5 years the following documents that may have been submitted to OCHA by the family, or provided to OCHA as part of the USCIS appeal during the OCHA informal hearing process:

- The application for assistance.
- The form completed by the family for income reexamination.
- Photocopies of any original documents, including original USCIS documents.
- The signed verification consent form.
- The USCIS verification results.
- The request for a USCIS appeal.
- The final USCIS determination.
- The request for an informal hearing.
- The final informal hearing decision.

PART IV: OWNER OR FAMILY DEBTS TO OCHA

16-IV.A. OVERVIEW

This part describes OCHA's policies for recovery of monies owed to OCHA by families, or to owners.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, OCHA holds the owner or participant liable to return any overpayments to OCHA.

When OCHA determines that the owner has retained HAP to which the owner was not entitled, OCHA will notify the owner and immediately deduct amounts due from current and future HAP payments.

When an owner or participant refuses to repay monies owed to OCHA, OCHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies.
- Small claims court.
- Civil law suit.
- State income tax set-off program.

16-IV.B. REPAYMENT POLICY

Owner Debts to OCHA

The owner must repay any amount due to OCHA within 30 days of OCHA's notification to the owner.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, OCHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the future HAP is insufficient to reclaim the amount owed after billing, OCHA will refer the debt to the County's Collection Department for action.

If the owner is not entitled to future HAP payments OCHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by OCHA.

If the owner refuses to repay the debt, OCHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to OCHA

Any amount owed to OCHA by an HCV program family must be repaid by the family. OCHA will offer to enter into a repayment agreement in accordance with the policies below.

If OCHA determines there was no willful intent to defraud, OCHA may enter into a Repayment Agreement for a maximum of \$9,000 following the schedule below. If the amount owed is over \$9,000, OCHA will give the family the option to pay the full amount owed in excess of \$9,000, plus the initial deposit, and enter into a Repayment for the difference.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, OCHA will terminate assistance in accordance with the policies of Chapter 12 and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to OCHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Down Payment Requirement

The down payment required at the execution of the repayment agreement will follow the schedule below.

Payment Thresholds

If OCHA enters into a Repayment Agreement with an assisted family, the Repayment Agreement will be set up as follows and the family must sign and make their initial payment within 60 days of notification. OCHA has established the following thresholds for repayment of debts:

Amount Owed	Initial Payment	Maximum Term	Monthly Payment Maximum
\$ 0 - \$500	*Full Amount	Immediate	N/A
\$ 501 - \$1,000	*\$500 plus 20% of balance	3 Months	\$133.33
\$1,001 - \$1,500	*\$500 plus 20% of balance	6 Months	\$133.33
\$1,501 - \$3,000	*\$500 plus 20% of balance	12 Months	\$166.67
\$3,001 - \$9,000	*\$500 plus 20% of balance	24 Months	\$283.33

*Due at the execution of the Repayment Agreement

If a family can provide evidence satisfactory to OCHA that the threshold applicable to the family's debt would impose an undue hardship, OCHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, OCHA will consider all relevant information, including the following:

The amount owed by the family to OCHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control

The family's current and potential income and expenses

The family's current family share, as calculated under 24 CFR 982.515

The family's history of meeting its financial responsibilities

Execution of the Agreement

Any repayment agreement between OCHA and a family must be signed and dated by OCHA and by the head of household and spouse/cohead (if applicable).

Due Dates

All payments are due by the close of business on the 1st day of the month and are considered late if not received by the 5th of the month.

Late or Missed Payments

If a payment is not received by the end of the calendar day on the 5th day of the month, and prior approval for the missed payment has not been given by OCHA, OCHA will send the family a delinquency warning notice giving the family 15 calendar days to make the late payment. If the payment is not received by the due date on the delinquency warning notice, it will be considered a breach of the agreement and OCHA may terminate assistance in accordance with the policies in Chapter 12 .

If a family receives two (2) delinquency notices for unexcused late payments during the term of the repayment agreement, the repayment agreement will be considered in default, and OCHA will terminate assistance in accordance with the policies in Chapter 12.

No Offer of Repayment Agreement

OCHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the family had a repayment agreement in the past for failure to report income, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which OCHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to OCHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure Public Housing Agency (PHA) performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

OCHA will submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by board action and signed by OCHA's executive director.

OCHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of OCHA's SEMAP certification, HUD will rate OCHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. OCHA or the Independent Auditor will select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify OCHA's certification on the indicator due a failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 AND FORM HUD-52648]

OCHA will provide current SEMAP indicators and performance scores to the public upon request.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

OCHA will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, OCHA will ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, OCHA will keep:

- A copy of the executed lease.
- The HAP contract.
- The application from the family.

In addition, OCHA will keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants.
- An application from each ineligible family and notice that the applicant is not eligible.
- HUD-required reports.
- Unit inspection reports.
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting OCHA budget and financial statements for the program.
- Records to document the basis for OCHA's determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract).
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D. Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

All applicant and participant information will be kept in a secure location and access will be limited to authorized OCHA staff.

OCHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or OCHA may release the information collected.

Upfront Income Verification (UIV) Records

OCHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

OCHA may only disclose the criminal conviction records received from a law enforcement agency to officers or employees of OCHA, or to authorized representatives of OCHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

OCHA established and implemented a system of records management that ensures that any criminal record received by OCHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to OCHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

OCHA established and implemented a system of records management that ensures that any sex offender registration information received by OCHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to OCHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by OCHA other than under 24 CFR 5.905.

Medical/Disability Records

OCHA will not inquire about a person's diagnosis or details of treatment for a disability or medical condition.

Documentation of Domestic Violence, Dating Violence, or Stalking

For requirements and OCHA policies related to management of documentation obtained from victims of domestic violence, dating violence, or stalking, see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

OCHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV program assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that OCHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(E)]

OCHA will report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(F)]

OCHA will continue to coordinate with the OC Health Care Agency (HCA), to identify children less than 6 years old with an identified environmental intervention blood lead level who reside in assisted housing units.

OCHA coordinates with HCA to compare addresses of assisted units with addresses of properties where environmental intervention blood lead level children have been identified. If a match occurs, OCHA will carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

HCV program regulations allow OCHA to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding will also impact OCHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology that OCHA will use to determine whether or not there is sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

OCHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing OCHA's annual budget authority to the annual total HAP needs.

Program management will monitor this on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, OCHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families.

If the total annual HAP needs equal or exceed the annual budget authority, or if OCHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, OCHA will be considered to have insufficient funding.

PART IX: VIOLENCE AGAINST WOMEN ACT OF 2005 (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence against Women Act of 2005 (VAWA) provides special protections for victims of domestic violence, dating violence, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and OCHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and OCHA policies are located primarily in the following sections: 3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means, 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.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
- The term immediate *family member* means, with respect to a person:
- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any other person living in the household of that person and related to that person by blood and marriage.
- The term *stalking* means:

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- 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.

16-IX.C. NOTIFICATION [24 CFR 5.2005(A)]

Notification to Public

OCHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

OCHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A summary of the rights and protections provided by VAWA to HCV program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking.
- An explanation of the documentation that OCHA may require from an individual who claims the protections provided by VAWA.
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking.
- A statement of OCHA's obligation to keep confidential any information that it receives from a victim unless (a) OCHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information.
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2).
- Contact information for local victim advocacy groups or service providers.

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program participants of their rights under VAWA, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as participants, PHAs may elect to provide the same information to applicants.

OCHA will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination. OCHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

OCHA is required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

OCHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. OCHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy OCHA’s request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator
- (2) A federal, state, tribal, territorial, or local police report or court record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

OCHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline. OCHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by OCHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where OCHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, OCHA may determine which is the true victim by

requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). OCHA will honor any court orders issued to protect the victim or to address the distribution of property.

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, OCHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

OCHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

If OCHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, or stalking, OCHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, OCHA will provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as OCHA may allow, OCHA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(B)(4)]

All information provided to OCHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, will be retained in confidence. This means that OCHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, OCHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

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

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

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

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

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

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

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

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

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

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

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

OCHA will operate a PBV program that is consistent with OCHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

OCHA's project-based voucher program may use budget authority for up to 100 units of its Housing Choice Voucher Program voucher allocations for project-based assistance annually. OCHA may limit or discontinue issuance of project-based vouchers at its discretion.

Exemption for Tenant Protection Vouchers

If OCHA is awarded Tenant Protection Vouchers from HUD, OCHA may exceed the 100 unit annual limitation for project-based vouchers if OCHA determines this is warranted to minimize displacement of tenants and to retain long term affordability of the impacted units.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, OCHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, OCHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

17-I.B. 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.C. 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.D. 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 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56, FR Notice 11/24/08], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

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 Services (OCCS) 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(b) and (c)]

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 such as the Orange County Register and trade journals.

In addition, OCHA/HCD will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

OCHA/HCD will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units OCHA estimates that it will be able to assist under the available funding. Proposals will be due in OCHA office 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;

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

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

OCHA/HCD will periodically 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 on site 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.

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

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.

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.

17-II.C. 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 PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

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. 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.

Subsidized Housing [24 CFR 983.54]

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

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

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, and FR Notice 7/9/10]

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.

OCHA will ensure submission of a subsidy layering review. Except in cases of HAP contracts for existing structures, or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified housing credit agencies, or HCAs), OCHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

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.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 11/24/08]

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 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b), FR Notice 11/24/08]

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).
- Supportive services may include mental or physical health services, counseling, in-home supportive services, drug and alcohol treatment. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service.

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

OCHA will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. OCHA will require service providers to report discontinued services as they occur.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

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.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(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 HQS site and neighborhood standards at 24 CFR 982.401(l).

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 983.57(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 983.57(e)]

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

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless 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;

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- 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.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

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.

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 the environmental review is completed.

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 (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program.

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, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. 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(a)]

OCHA and/or HCD 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 HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, OCHA will not execute the HAP contract until the units fully comply with HQS.

Turnover Inspections [24 CFR 983.103(c)]

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

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, OCHA 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 HQS.

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

Other Inspections [24 CFR 983.103(e)]

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

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

In conducting PHA supervisory quality control HQS inspections, 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]

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

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 983.152(a)].

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

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

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;
- 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.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153, FR Notice 11/24/08]

The Agreement will be executed promptly after notice of proposal selection to the selected owner. 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. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors 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 will monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner will also comply with federal equal employment opportunity requirements.

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

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.D. COMPLETION OF HOUSING

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(b)]

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

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and

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- Owner certification that the owner has complied with labor standards and equal opportunity 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]

Upon notice from the owner that the housing is completed, OCHA will inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. 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

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].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203, FR Notice 11/24/08]

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 (HQS). 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 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 HQS.

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 HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [FR Notice 11/24/08]

OCHA will enter into a HAP contract with an owner for an initial term of no less than one year and no more than 15 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 15 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(c)]

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.

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. In this case, families living in the contract units will be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

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

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

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 will inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(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 983.206(c) 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 983.209]

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

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

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- 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.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner 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.

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

Applicants who will occupy units with PBV assistance will be selected from OCHA's waiting list. OCHA may establish selection criteria or preferences for occupancy of particular PBV units.

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

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)(7)]

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(d), FR Notice 11/24/08]

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 [24 CFR 983.261(b)].

17-VI.E. OFFER OF PBV ASSISTANCE

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

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

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance 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, 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, 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

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 and Executive Order 13166 (see Chapter 2).

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(b)].

Leasing [24 CFR 983.253(a)]

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 (mail, fax, or e-mail) 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 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st 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 HQS 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:

- 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 provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease 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);

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- 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) and 983.257(b)]

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.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c), FR Notice 11/24/08]

If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

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.

Security Deposits [24 CFR 983.258]

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 983.259]

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 983.260]

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.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261, FR Notice 11/24/08]

OCHA will not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by OCHA. At least one member will be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by OCHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), will vacate the unit within a reasonable period of time established by OCHA, and OCHA will cease paying housing assistance payments on behalf of the non-qualifying family.

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

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, 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), FR Notice 11/24/08]

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 will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining 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, FR Notice 11/24/08]

OCHA 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 HQS. 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 983.303]

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 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.

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.

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 HQS 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. 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.C. 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.

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 for the last twelve consecutive months before the COP expires.
- 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 for at least 12 consecutive months prior to the expiration of the COP.
- 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

Established goals may be revised 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 for the prior 12 consecutive months.
- 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 for the prior 12 consecutive months.
- 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) received public assistance in the prior 12 consecutive months.
- 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

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.

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

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

PART I: ADMINISTRATION OF FUP

19-1.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.

19-1.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 21 years old who left foster care at age 16 or older 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.

Assistance to FUP youths is limited to 18 months. However, in conformance with HUD PIH Notice 2016-01, OCHA **was selected to** participate in an FUP/FSS demonstration, which extends the period of time otherwise eligible FUP youth may receive assistance up to five (5) years commensurate with the length of an FSS contract.

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.

19-1.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.

19-1.D. BRIEFINGS AND VOUCHER ISSUANCE

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.
- **Voucher Issuance:** 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.

19-1.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.

19-1.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.

19-1.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

21-I.A. OVERVIEW

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:

21-I.B. ELIGIBILITY

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.

21-I.C. APPLICATIONS, WAITING LIST, AND TENANT SELECTION

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.

21-I.D. BRIEFING AND VOUCHER ISSUANCE

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.

21-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.

21-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.

21-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.

21-I.H. SPECIAL HOUSING TYPES

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

21-I.I. PROGRAM ADMINISTRATION

Setting Program Standards and Schedules contained in Chapter 16 of this Administrative Plan, has been modified to include:

OCHA and DMC memorandum of understanding (MOU):

OCHA and the Dayle McIntosh Center (DMC), the Service Provider, have entered into a Memorandum of Understanding (MOU), which defines the roles and responsibilities of each agency in implementing the unique requirements of NED. OCHA and DMC will work in

collaboration to ensure the highest level of participation by assisting participants to fully utilizing the benefits and resources made available for this program.

21-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

22-I.A. 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:

22-I.B. ELIGIBILITY

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

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.

22-I.C. 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.

22-I.D. BRIEFING AND VOUCHER ISSUANCE

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

Briefings:

1. 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.
2. VASH participation in OCHA's FSS program will be encouraged.

Extension:

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.

22-I.E. MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

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.

22-I.F. TERMINATION OF ASSISTANCE AND TENANCY

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.

22-I.G. PROGRAM ADMINISTRATION**Management Assessment (SEMAP):**

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

Glossary

ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act

LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

GLOSSARY OF SUBSIDIZED HOUSING TERMS

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.

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. 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.

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.)

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.

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.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care 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 child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

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 HQS 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

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.

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.

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).

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. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

Family. Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family 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 Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*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.

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.

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.

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.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

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.

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.

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.

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 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 HQS. 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.

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.

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) 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.

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.

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'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.

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.

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.

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 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 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is 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.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

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.

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".

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 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.

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.

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, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-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).