# CITY OF DOUGLAS

# HOUSING AUTHORITY

EQUAL HOUSING
OPPORTUNITY

# SECTION 8 HOUSING PROGRAM

# 2017

# ADMINISTRATIVE PLAN

REVISION ADOPTED APRIL 12, 2017

**CITY OF DOUGLAS HOUSING AUTHORITY**
**SECTION 8 ADMINISTRATIVE PLAN**
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# 1.0 EQUAL OPPORTUNITY

## *1.1 FAIR HOUSING*

It is the policy of the Douglas Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

The PHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

All Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organization to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the PHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

The City of Douglas PHA office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the **TTD/TDY telephone service at (520) 364-1582.**

## *1.2 REASONABLE ACCOMMODATION*

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the Douglas Housing Authority housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the Douglas Housing Authority will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the Douglas Housing Authority will ensure that all applicants/participants are aware of the opportunity to request reasonable accommodations.

## *1.3 COMMUNICATION*

Anyone requesting an application will also receive a Request for Reasonable Accommodation Form.

Notifications of reexamination, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the participant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests will be in writing. The PHA will respond to written requests for accommodation in writing, within 10 days.

## *1.4 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION*

A. Is the requestor a person with disabilities? For this purpose, the definition of disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

> A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e., a heart condition).

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, the Douglas Housing Authority will obtain verification that the person is a person with a disability.

B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Douglas Housing Authority will obtain documentation that the requested accommodation is needed due to the disability. The Douglas Housing Authority will not inquire as to the nature of the disability.

C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:

1. Would the accommodation constitute a fundamental alteration? The Douglas Housing Authority's business is housing. If the request would alter the fundamental business that the Douglas Housing Authority conducts, that would not be reasonable. For instance, the Douglas Housing Authority would deny a request to have the Douglas Housing Authority do grocery shopping for the person with disabilities.

2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Douglas Housing Authority may request a meeting with the individual to investigate and consider equally effective alternatives.

Generally the individual knows best what they need; however, the Douglas Housing Authority retains the right to be shown how the requested accommodation enables the individual to access or use the Douglas Housing Authority's programs or services.

If more than one accommodation is equally effective in providing access to the Douglas Housing Authority's programs and services, the Douglas Housing Authority retains the right to select the most efficient or economic choice.

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. The Housing Authority does not have responsibility for the owner's unit and does not have responsibility to make the unit accessible.

Any request for an accommodation that would enable a participant to materially violate family obligations will not be approved.

Once the person's status as a qualified person with a disability is confirmed, the PHA will require that a professional third party competent to make the assessment provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

## *1.5 SERVICES FOR NON-ENGLISH SPEAKING PERSONS AND PARTICIPANTS*

The PHA 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, the PHA 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 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 the PHA. The interpreter may be a family member or friend.

The PHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

## *1.6 FAMILY/OWNER OUTREACH*

The Douglas Housing Authority will publicize the availability and nature of the Section 8 Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach persons, who cannot or do not read newspapers, the Douglas Housing Authority will distribute fact sheets to the broadcasting media, community service agencies, library and school bulletin boards and at City Hall. The Douglas Housing Authority will also try to utilize public service announcements.

The Douglas Housing Authority will communicate the status of program availability to other service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

The Douglas Housing Authority will hold briefings for owners who participate in or who are seeking information about the Section 8 Program. Owners and managers participating in the Section 8 Program may participate in making this presentation. The briefing is intended to:

A. Explain how the program works;

B. Explain how the program benefits owners;

C. Explain owners' responsibilities under the program. Emphasis is placed on quality screening and ways the Douglas Housing Authority helps owners do better screening; and

D. Provide an opportunity for owners to ask questions, obtain written materials, and meet Douglas Housing Authority staff.

The Douglas Housing Authority will encourage owners of suitable units located outside of low-income or minority concentration to attend. Targeted mailing lists will be developed and announcements mailed.

## *1.6A OWNER QUALIFICATIONS*

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA 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)]**

The PHA must not approve the assisted tenancy if the PHA 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 the PHA 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]**

The PHA must not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA 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]**

The PHA 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 the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, 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

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination. Any waiver request submitted by the PHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;

- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;

- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;

- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;

- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;

- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;

- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;

- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;

- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans. Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, the PHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions

present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

### *1.7 RIGHT TO PRIVACY*

All adult members of both applicant and participant households are required to sign HUD Form 9886, *Authorization for Release of Information and Privacy Act Notice.* The *Authorization for Release of Information and Privacy Act Notice* states how family information will be released and includes the *Federal Privacy Act Statement*.

Any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant.

### *1.8 REQUIRED POSTINGS*

The Douglas Housing Authority will post, at its office, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

A. The Section 8 Administrative Plan

B. Notice of the status of the waiting list (opened or closed)

C. The office hours, telephone numbers, TDD numbers, and hours of operation

D. Income Limits for Admission

E. Informal Review and Informal Hearing Procedures

F. Fair Housing Poster

G. Equal Opportunity in Employment Poster

## 2.0 DOUGLAS HOUSING AUTHORITY/OWNER RESPONSIBILITY/ OBLIGATION OF THE FAMILY

This Section outlines the responsibilities and obligations of the Douglas Housing Authority, the Section 8 Owners/Landlords, and the participating families.

## *2.1 DOUGLAS HOUSING AUTHORITY RESPONSIBILITIES*

A. The Douglas Housing Authority will comply with the consolidated ACC, the application, HUD regulations and other requirements, and the Douglas Housing Authority Section 8 Administrative Plan.

B. In administering the program, the Douglas Housing Authority must:

1. Publish and disseminate information about the availability and nature of housing assistance under the program;

2. Explain the program to owners and families;

3. Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration;

4. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration;

5. Affirmatively further fair housing goals and comply with equal opportunity requirements;

6. Make efforts to help disabled persons find satisfactory housing;

7. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, issue a voucher to each selected family, and provide housing information to families selected;

8. Determine who can live in the assisted unit at admission and during the family's participation in the program;

9. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;

10. Review the family's request for approval of the tenancy and the owner/landlord lease, including the HUD prescribed tenancy addendum;

11. Inspect the unit before the assisted occupancy begins and at least annually during the assisted tenancy;

12. Determine the amount of the housing assistance payment for a family;

13. Determine the maximum rent to the owner and whether the rent is reasonable;

14. Make timely housing assistance payments to an owner in accordance with the HAP contract;

15. Examine family income, size and composition at admission and during the family's participation in the program. The examination includes verification of income and other family information;

16. Establish and adjust Douglas Housing Authority utility allowance;

17. Administer and enforce the housing assistance payments contract with an owner, including taking appropriate action as determined by the Douglas Housing Authority, if the owner defaults (e.g., HQS violation);

18. Determine whether to terminate assistance to a participant family for violation of family obligations;

19. Conduct informal reviews of certain Douglas Housing Authority decisions concerning applicants for participation in the program;

20. Conduct informal hearings on certain Douglas Housing Authority decisions concerning participant families;

21. Provide sound financial management of the program, including engaging an independent public accountant to conduct audits.

## *2.2 OWNER RESPONSIBILITY*

A. The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease.

B. The owner is responsible for:

1. 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.

2. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.

3. Complying with equal opportunity requirements.

4. Preparing and furnishing to the Douglas Housing Authority information required under the HAP contract.

5. Performing all of the owner's obligations under the housing assistance payments (HAP) contract and the lease

6. Collecting from the family:

   a. Any security deposit required under the lease.

   b. The tenant contribution (the part of rent to owner not covered by the housing assistance payment.

   c. Any charges for unit damage by the family.

7. Enforcing tenant obligations under the lease.

8. Paying for utilities and services (unless paid by the family under the lease.)

9. Complying with the Violence against Women Reauthorization Act of 2013 (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))

C. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.

D. 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 the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

## *2.3 OBLIGATIONS OF THE PARTICIPANT*

This Section states the obligations of a participant family under the program.

A. When the family's unit is approved and the HAP contract is executed, the family must follow the rules listed below in order to continue participating in the Housing Choice Voucher Program.

B. **The family must:**

1. Supply information that the PHA or HUD determines to be necessary, including evidence of citizenship or eligible immigration status, and

information for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

2. Disclose and verify social security numbers and sign and submit consent forms for obtaining information.

3. Supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.

4. Promptly notify the PHA in writing when the family is away from the unit for an extended period of time in accordance with PHA policies. The family must supply any information or certification requested by the Douglas Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Douglas Housing Authority requested information or certification on the purposes of family absences. The family must cooperate with the Douglas Housing Authority for this purpose. The family must promptly notify the Douglas Housing Authority of its absence from the unit.

   Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to 30 calendar days. The family must request permission, in writing before the absence, from the Douglas Housing Authority for absences exceeding 30 calendar days. The Douglas Housing Authority will make a determination within 5 business days of the request. An authorized absence may not exceed 180 calendar days. Any family absent for more than 30 calendar days without authorization will be terminated from the program.

   Authorized absences may include, but are not limited to:

   A. Prolonged hospitalization

   B. Absences beyond the control of the family (i.e., death in the family, other family member illness)

   C. Other absences that are deemed necessary by the Douglas Housing Authority.

5. Allow the PHA to inspect the unit at reasonable times and after at least two (2) days notice.

6. Notify the PHA and the owner in writing thirty (30) days before moving out of the unit or terminating the lease.

7. Use the assisted unit for residence by the family. The unit must be the family's only residence.

8. Promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child.

9. Request PHA written approval to add any other family member as an occupant of the unit.

10. Promptly notify the PHA in writing, if any family member no longer lives in the unit.

11. Promptly give the PHA a copy of any owner eviction notice.

12. Pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

13. Promptly notify the PHA of any damages to the unit, HQS violations or repairs needed.

C. **Any information the family supplies must be true and complete.**

D. **The family (including each family member) must not:**

1. Own or have any interest in the unit (other than in a cooperative, or the owner of a manufactured home leasing a manufactured home space).

2. Commit any serious or repeated violation of the lease.

3. Commit fraud, bribery or any other corrupt or criminal act in connection with the program.

4. Engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

5. Sublease or let the unit or assign the lease or transfer the unit.

6. Receive Housing Choice Voucher Program housing assistance while receiving another housing subsidy, for the same unit or a different unit under any other Federal, State or local housing assistance program.

7. Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.

8. Receive Housing Choice Voucher Program housing assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister

or brother of any member of the family, unless the PHA 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.

9. 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.

# 3.0 ELIGIBILITY FOR ADMISSION

## *3.1 INTRODUCTION*

The PHA accepts applications only from families whose head or spouse is at least 18 years of age. To be eligible for participation, an applicant must meet HUD's criteria, as well any permissible additional criteria established by the PHA. HUD's eligibility criteria are:

A. An applicant must be a "family"

B. An applicant must be within the appropriate Income Limits

C. An applicant must provide Social Security Numbers for all family members or certify that they don't have one.

D. An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required.

At least one member of the applicant family must either be a U.S. Citizen or have eligible immigration status before the PHA may provide any financial assistance.

## *3.2 FAMILY AND HOUSEHOLD*

**A. Family status.**

1. A **family with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship.

   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 previously or certify that each individual's income and other resources will be available to meet the needs of the family.

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.

a. Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

b. Unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size, but are not considered family members for determining income limit.

2. An **elderly family**, which is:

a. A family whose head, spouse, co-head, or sole member is a person who is at least 62 years of age;

b. Two or more persons who are at least 62 years of age living together; or

c. One or more persons who are at least 62 years of age living with one or more live-in aides

3. A **disabled family**, which is:

a. A family whose head, spouse, or co-head is a person with disabilities;

b. Two or more persons with disabilities living together; or

c. One or more persons with disabilities living with one or more live-in aides.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

4. A **remaining member of a 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.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

The PHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up. The factors to be considered in making this decision include:

- Whether the assistance should remain with family members remaining in the original assisted unit.
- The interest of minor children or of ill, elderly or disabled family members.
- Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of the household.
- Other factors specified by the PHA.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program.

5. A **single person** who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Head of Household**

The head of household is the **adult** member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

**Spouse of Head**

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

**Co-Head**

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

**Dependent**

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, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

**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, the PHA 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.

**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 co-head, qualifies the family for a dependent deduction, and (2) the income of such an FTS is treated differently from the income of other family members.

**Live-in Attendants**

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).
- Is at least 18 years of age.

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-citizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A Live in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan.

**[**24 CFR 982.316**]** At any time, the PHA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

*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 or violent criminal activity; or

*The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

**Guests**

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 15 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 for a time limit not exceeding 180 days. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

**Foster Children and Foster Adults**

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].
The term *foster child* is not specifically defined by the regulations.

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 and 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.

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.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 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 180 consecutive days or less 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 180 consecutive days 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 away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

If a child has been placed in foster care, the PHA 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 Co-head

An employed head, spouse, or co-head 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 [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].

The PHA 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.

**Return of Permanently Absent Family Members**

The family must request PHA approval for the return of any adult family members that the PHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

## B. Income eligibility [24 CRF 982.201]

1. To be eligible to receive assistance a family shall, at the time the family initially receives assistance under the Section 8 program shall be a low-income family that is:

    a. An extremely low-income (30% of median income), or a very low-income (50% of median income); The PHA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

    b. A low-income family "continuously assisted" for 90 calendar days 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].

    c. A low-income family that meets additional eligibility criteria specified by the Housing Authority;

    d. A low-income family that is a non-purchasing tenant in a HOPE 1 or HOPE 2 project or a property subject to a resident homeownership program under 24 CFR 248.173;

    e. A low-income family or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.

f. A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project.

2. Income limits apply only at admission and are not applicable for continued occupancy; however, as income rises the assistance will decrease.

3. The applicable income limit for issuance of a voucher is the highest income limit for the family size for areas within the housing authority's jurisdiction. The applicable income limit for admission to the program is the income limit for the area in which the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.

4. Families who are moving into the HA's jurisdiction under portability and have the status of applicant rather than of participant at their initial housing authority, must meet the income limit for the area where they were initially assisted under the program.

5. Families who are moving into the Douglas Housing Authority's jurisdiction under portability and are already program participants at their initial housing authority do not have to meet the income eligibility requirement for the Douglas Housing Authority program.

6. Income limit restrictions do not apply to families transferring units within the Douglas Housing Authority Section 8 Program.

**Using Income Limits for Targeting [24 CRF 982.201]**

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

## C. Citizenship/Eligible Immigrant status [24 CFR Part 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 non-citizens that have eligible immigration status. At least one family member must be a citizen, national, or non-citizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with

the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

**Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, 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 non-citizens. For citizens, nationals and eligible non-citizens the declaration must be signed personally by the head, spouse, co-head, 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 Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

***Eligible Non-citizens***

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status. The documentation required for establishing eligible non-citizen 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.

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 Non-citizens***

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA 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 non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or

to the children of the citizen spouse and non-citizen 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 non-citizen. 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. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

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

The PHA will not provide assistance to a family before the verification of at least one family member.

When a PHA determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination. The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the PHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

## D. Social Security Number Documentation [24 CRF 5.216, 5.218]

Families are required to provide verification of Social Security Numbers for all family members prior to admission. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days. If verification cannot be produced within 60 days, the applicant will be removed from the waiting list or housing assistance will be terminated.

## E. Signing Consent Forms

1. In order to be eligible each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.

2. The consent form must contain, at a minimum, the following:

   a. A provision authorizing HUD and the Douglas Housing Authority to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy;

   b. A provision authorizing HUD or the Douglas Housing Authority to verify with previous or current employers income information pertinent to the family's eligibility for or level of assistance;

   c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits; and

   d. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

## F. Suitability for tenancy.

The Douglas Housing Authority determines eligibility for participation and will also conduct criminal background checks on all adult household members, including live-in aides. The Douglas Housing Authority will deny assistance to a family because of drug-related criminal activity, registered sex offenders, (denied for life) or violent criminal activity by family members within the three years of the record search. This check will be made through local law enforcement If the individual has lived outside the local area, the Douglas Housing Authority may contact law enforcement agencies where the individual had lived.

The Douglas Housing Authority will check with the State sex offender registration program *via the Internet at www.azsexoffender.org* and will ban for life any individual who is registered as a lifetime sex offender.

Additional screening is the responsibility of the owner. Upon the written request of a prospective owner, the Douglas Housing Authority will provide any factual information or third party written information they have relevant to a voucher

holder's history of, or ability to, comply with material standard lease terms or any history of drug trafficking.

## G. 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 implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- 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, and does not have a dependent child, the student's eligibility must 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 PHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new 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

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR 4/10/06, p. 18148]; U.S. Housing Act of 1937; [71 FR 18146, appendix A]; 24 CFR5.609(b)(9); 24 CFR 5.609(c)(6)

#### *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*

The PHA 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:

1. The individual is of legal contract age under state law.

2. 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

3. 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.

4. 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.

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

***Institution of Higher Education***

The PHA 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, step-parents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc).

***Tuition***

The Supplementary Guidance states that "tuition shall have the meaning given this term by the institution of higher education in which the student is enrolled." To promote consistency across HUD's programs … HUD is aligning with the Department of Education's definition of tuition and fees. [71 FR 18146, appendix

A] For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (**in excess of amounts received for tuition and any other required fees and charges**) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or 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 for a person over the age of 23 with dependent children."

***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, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must 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, the PHA 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 the PHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the PHA 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, the PHA will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the PHA 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, the PHA 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. The PHA 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, the PHA will use the income limits for the jurisdiction in which the parents live.

## *3.3 DENIAL OF ASSISTANCE*

A family that does not meet the eligibility criteria discussed above must be denied assistance.

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list.
- 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 CRF 982.202(b), Pub.L. 109-162]**

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 the PHA's jurisdiction (See Chapter 10, Portability.)

- 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 has been a victim of domestic violence, dating violence, or stalking

**Mandatory Denial of Assistance [24 CFR 982.553(a)]**

HUD requires the PHA 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. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-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).

  The PHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

  *Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, 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, the PHA 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 or the abuse of alcohol. A conviction will be given more weight than an arrest. The PHA 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

**Other permitted reasons for denial of assistance**

A. Do not meet any one or more of the eligibility criteria;

B. Do not supply information or documentation required by the application process;

C. Fail to respond to a written request for information or a request to declare continued interest in the program;

D. Fail to complete any aspect of the application or lease-up process;

E. Any criminal activity (a three year period) by any household member involving crimes of physical violence against persons or property, and drug-related criminal activity that would adversely affect the health, safety, or well being of other tenants or staff, or cause damage to the property.

F. Currently owes rent or other amounts to any housing authority in connection with the public housing or Section 8 Programs.

G. Have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived therefrom;

H. Have a family member who was evicted or terminated from assisted housing within the past three years;

I. Have a family member who was evicted from assisted housing within five years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;

J. Have a family member who is currently engaged in illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in is defined as: Any use if illegal drugs during the previous six months.* The Douglas Housing Authority may waive this requirement with documentation or statement from a third party and will consider the following when making a 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 of culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or 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 member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

  The PHA will require the applicant 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.

K. Have engaged in threatening, abusive or violent behavior towards any Douglas Housing staff or residents. Abusive or violent behavior towards PHA 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 the intent to abuse or commit violence.

L. Have a family household member who has been terminated under the Section 8 Program during the last three years;

M. Have a family member who has been convicted of manufacturing or producing methamphetamine (speed) (Denied for life);

N. Have a family member with a lifetime registration under a State sex offender registration program (Denied for life).

## *3.4 CRITERIA FOR DECIDING TO DENY ASSISTANCE*

The PHA 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**

The PHA 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 member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The PHA will require the applicant 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.

### *3.5 VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING [Pub.L.109-162]*

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history that would warrant denial under the PHA's policies. Therefore, if the PHA makes a determination to deny admission to an applicant family, the PHA will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault or stalking.

The documentation must include two elements:

1. A signed statement by the victim that provides the name of the perpetrator, only if the name of the perpetrator is safe to provide and is known to the victim, and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and

2. One of the following:
   - A police or court record documenting the actual or threatened abuse, or
   - A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of

perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement; or

- A record of an administrative agency; or
- Documentation from a mental health professional.

The applicant must submit the required documentation with her or his request for an informal review or must request an extension in writing at that time. If the applicant so requests, the PHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant the PHA determines the family is eligible for assistance, no informal review will be scheduled and the PHA will proceed with admission of the applicant family.

**Perpetrator Removal or Documentation of Rehabilitation**

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the PHA will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment.

If the family elects the second option, 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. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

**PHA Confidentiality Requirements**

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

## 4.0 MANAGING THE WAITING LIST

### *4.1 OPENING AND CLOSING THE WAITING LIST*

Opening of the waiting list will be announced via public notice that applications for Section 8 will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation, and also by any available minority media. The public notice will state any limitations to who may apply.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program, and that such applicants will not lose their place on other waiting lists when they apply for Section 8. The notice will include the Fair Housing logo.

Closing of the waiting list will be announced via public notice. The public notice will state the date the waiting list will be closed. The public notice will be published in a local newspaper of general circulation, distributed to community agencies, posted at City Hall, the City Library and also made available minority media.

### *4.2 TAKING APPLICATIONS*

Families wishing to apply for the Section 8 Program will be required to complete a pre-application ("application") for housing assistance. Applications are available at the counter during regular business hours at **City of Douglas Housing Authority, 425 E. 10th Street Douglas, AZ 85607.** Applications will also be mailed upon request of the applicant.

Applications are taken to compile a waiting list. Due to the demand for Section 8 assistance, applications may be taken on an open enrollment basis depending on the length of the waiting list.

When the waiting list is open, completed pre-applications will be accepted from all applicants at any time and will be dated and time stamped upon its return to the Douglas Housing Authority. Pre-Applications will be added to the waiting list by date and time that it was received. The Douglas HA will at a later date request a full application in order to determine applicant's eligibility, admission, and level of benefit.

Persons needing assistance with the Application process may receive help in person at the Douglas Housing Authority, 425 E. 10th Street, Douglas, AZ 85607 between 8:00 a.m. and 5:00 p.m. Monday through Friday.

Persons with disabilities who require a reasonable accommodation in completing an application may call the Douglas Housing Authority to make special arrangements to complete their application. A Telecommunication Device for the Deaf (TDD) is available for the deaf. The TDD telephone number is **520.364.1582**.

The application process involves two phases. Phase 1 is the pre-application. The pre-application requires the family to provide limited basic information including name, address, phone number, family composition, income information, birth dates, Social

Security numbers of all household members, Racial or ethnic designation of the head of household, and information establishing any preferences to which they may be entitled. Phase 1 may result in the family's placement on the waiting list.

Upon receipt of the family's pre-application, the Douglas Housing Authority will make a preliminary determination of eligibility. The Douglas Housing Authority will notify the family in writing of the date and time of placement on the waiting list, waiting list placement number and the approximate amount of time before housing assistance may be offered. If the Douglas Housing Authority determines the family to be ineligible, the notice will state the reasons therefore, and offer the family the opportunity for an informal review of this determination.

Applicants must report changes to their application, including change of address, family composition, income, or preference factors. Changes must be reported in writing by the Head of Household. The applicant's file will be annotated and their place on the waiting list will be updated should that become necessary.

Pre-applications will not require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Phase 2 is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. Verification of all preferences, eligibility, will be done in Phase 2 of the application process. The family's final eligibility for admission into the Section 8 Program is determined in Phase 2.

## *4.3 ORGANIZATION OF THE WAITING LIST – TENANT-BASED AND MULTI-FAMILY*

The waiting list(s) will be maintained in accordance with the following guidelines:

A. The application will be a permanent file;

B. All applications will be maintained in order of preference and then in order of date and time of application;

C. Any contact between the Douglas Housing Authority and the applicant will be documented in the applicant file and/or computer software.

Note: The tenant based waiting list cannot be maintained by bedroom size under current HUD regulations. **The exception to this is the Multi-family Housing Assistance Program.**

## *4.4 FAMILIES NEARING THE TOP OF THE WAITING LIST*

When a family appears to be within two (2) months of being offered assistance, the family will be asked to complete a full application and present Social Security Number information, original birth certificates, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms and all other required information. Applicant files will be pulled from the waiting list for eligibility certification and will be placed on "pending" status. The Douglas Housing Authority must notify the family in writing of its determination, and give the family the opportunity for an informal review.

## *4.5 MISSED APPOINTMENTS*

All applicants who fail to keep a scheduled appointment in accordance with the paragraph below will be sent a notice of denial.

The Douglas Housing Authority will allow the family to reschedule an appointment for good cause but no more than twice. When a good cause exists, the Douglas Housing Authority will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review upon being removed from the waiting list, if requested within 10 days of the drop notice. Examples of good cause include but are not limited to the following: 1) documentation of hospitalization; 2) documentation of family illness, and 3) death in the immediate family that requires out of town travel. The Douglas Housing Authority reserves the right to determine "Good Cause".

**Requirement to Attend Interview**

The PHA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other PHA services or programs which may be available.

The head of household is required to attend the interview. If an applicant fails to appear for their interview without prior approval of the PHA, their application will be denied unless they can provide acceptable documentation to the PHA that an emergency prevented them from attending or calling to re-schedule. If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

## *4.6 PURGING THE WAITING LIST*

The Douglas Housing Authority will update and purge its waiting list at least annually to ensure that the pool of applicants reasonably represents interested families. Purging also enables the Housing Authority to update the information regarding address, family composition, income category and preferences.

To update the waiting list, the PHA will send an update request via 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 last address that the PHA 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, or by fax. Responses should be postmarked or received by the PHA not later than 10 business days from the date of the PHA letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office, the applicant will be removed from the waiting list without further notice.

If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if s/he determines the lack of response was due to PHA error, or to circumstances beyond the family's control.

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, the PHA 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 10 business 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 required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

## *4.7 REMOVAL OF APPLICANTS FROM THE WAITING LIST*

The Douglas Housing Authority will not remove an applicant's name from the waiting list unless:

A. The applicant requests, in writing, that the name be removed;

B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program or misses scheduled appointments or refuses offered housing; or

C. The applicant does not meet either the eligibility or screening criteria for the program.

D. Properly addressed letters to applicant are returned by the post office.

### *4.8 NOTIFICATION OF NEGATIVE ACTIONS*

Any applicant whose name is being removed from the waiting list will be notified by the Douglas Housing Authority, in writing, that they have ten (10) business days, from the date of the written correspondence, to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the time frame specified. The Douglas Housing Authority's system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, the Douglas Housing Authority will provide a reasonable accommodation. If the applicant indicates that they did not respond due to a disability, the Douglas Housing Authority will verify that there is in fact a disability and that the accommodation they are requesting is necessary based on the disability. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

### *4.9 INFORMAL REVIEW*

If the Douglas Housing Authority determines that an applicant does not meet the criteria for receiving Section 8 assistance, the Douglas Housing Authority will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision, and state that the applicant may request an informal review of the decision within ten (10) business days of the denial. The Douglas Housing Authority will describe how to obtain the informal review. The informal review process is described in Section 16.2 of this Plan.

## 5.0 SELECTING FAMILIES FROM THE WAITING LIST

### *5.1 SPECIAL ADMISSIONS {24 CFR 982.54(D)(E),982.203]*

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The PHA maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

## *5.2 PREFERENCES*

Consistent with the Douglas Housing Authority Agency Plan, based on local needs and priorities, all income eligible families will be afforded equal preference for housing assistance by the Douglas Housing Authority.

The PHA will offer public notice when changing its local preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list.

The PHA uses the following local preference system:

- Involuntary Displacement due to a disaster (fire, flood, earthquake, etc) that has caused the unit to be uninhabitable. The unit must have become uninhabitable within no more than six months from the date of application and be located within the City limits of Douglas. The displaced applicant will receive three (3) points.
- Disability/Elderly Preference – This preference is extended to disabled persons or families with a disabled member as defined in this plan, and/or a family whose head of household or spouse/co-head is age 62 or older at time of application. The disability/elderly preference will receive one (1) point.
- Residency – Any applicant family who resides, works, or has been hired to work, or who is attending school within the City of Douglas city limits at the time of application, will receive a one (1) point preference.
- Working Family – Families where the head, spouse/co-head, or sole member is employed at least 20 hours per week. This preference is automatically extended to

an applicant family if the head and spouse, or sole member is age 62 or older, or is a person with disabilities. The working family preference will receive one (1) point.

- Veteran's Preference – This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans. The veteran's preference will receive one (1) point.

- Victims of Domestic Violence. When verified, the victim of domestic violence preference will receive one (1) point

**Local preferences will be aggregated using the following system**:

Each preference will be equal to one (1) point, with the exception of the Involuntary Displacement preference, which will be issued three (3) points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

All preferences being claimed will be verified by the PHA at the time of eligibility interview, with the exception of the Domestic Violence Preference; that preference will be verified before the preference point can be assigned.

## VERIFICATION OF WAITING LIST PREFERENCES

**Residency Preference**: For families who live, work or have been hired to work or who are attending school in the jurisdiction of the PHA.

In order to verify that an applicant is a resident, the PHA will require a minimum of **[3]** of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voters registration records, credit reports, notarized statement from household with whom the family is residing. For families who have been hired to work in the jurisdiction of the PHA, a statement from the employer will be required.

**Veterans Preference**: This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans. The PHA will require U.S. government documents which indicate that the applicant qualifies under the above definition.

**Disability Preference**: This preference is extended to disabled persons or families with a disabled member as defined in this plan. The PHA will require appropriate documentation from a knowledgeable professional. The PHA will not inquire as to the nature or extent of the disability. An award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

**Working Preference**: Families where the head, spouse/co-head, or sole member is employed at least 20 hours per week or who are active participants in accredited educational and training programs designed to prepare the individual for the job market.

This preference is automatically extended to an applicant family if the head and spouse, or sole member is age 62 or older, or is a person with disabilities. The PHA will require a statement from the employer, or verification of age or disability status of the head and spouse or sole member.

**Involuntary Displacement**: Families who claim they are being or have been displaced due to a disaster: written verification by the displacing unit or agency of government, or by a service agency such as the Red Cross. They must have lived within the jurisdiction of the City of Douglas Public Housing Authority at the time of displacement.

**Victims of Domestic Violence**: The PHA will offer a local preference to families that include victims of domestic violence. To qualify for this preference: Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family must have occurred within the past 30 days or be of a continuing nature. The family must have been displaced as a result of fleeing violence in the home or they are currently living in a situation where they are being subjected to or victimized by violence in the home.

The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

The PHA will require written verification from the police, a social service agency, the court, a clergyperson, a physician, and/or a public or private facility giving shelter and/or counseling to victims. The documentation must verify that the family has been displaced as a result of fleeing violence in the home or they are currently living in a situation where they are being subjected to or victimized by violence in the home, and identify when the actual or threatened physical violence against the applicant last occurred. The family must certify that the abuser will not return to the household without the advance written approval of the PHA.

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. preferences, targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The PHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

## *5.3 SELECTION FROM THE WAITING LIST*

Except for families qualifying for the emergency preference, families will be selected from the waiting list on a first-come, first-served basis according to the date and time of the family's application for housing assistance.

In the case of Mod-Rehab and Project Based Assistance, the bedroom size and then date and time of application will be utilized to determine selection from the waiting list.

If necessary to meet the statutory requirement that 75% of newly admitted families in any fiscal year be families who are extremely low-income, the Douglas Housing Authority retains the right to skip higher income families on the waiting to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the Housing Authority will monitor incomes of newly admitted families and the income of the families on the waiting list.

If there are not enough extremely low-income families on the waiting list, the Douglas Housing Authority will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

The PHA will notify the family by 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 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
- Other documents and information that should be brought to the interview

If a notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

When an applicant is offered assistance and refuses the offer, he/she loses his/her placement on that particular waiting list. If the applicant is on another waiting list, the position on that list is not affected.

## *5.4 OTHER HOUSING ASSISTANCE [24 CFR 982.205(B)]*

Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing.

The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

- Refuse to list the applicant on the PHA waiting list for tenant-based assistance;
- Deny any admission preference for which the applicant is currently qualified;

- Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the PHA selection policy; or

- Remove the applicant from the waiting list.

However, the PHA may remove the applicant from the waiting list for project-based assistance (Mod Rehab), if the PHA has offered the applicant assistance under the voucher program.

## 6.0 ASSIGNMENT OF BEDROOM SIZES (SUBSIDY STANDARDS) [24 CFR 982.54(D)(9)]

The Douglas Housing Authority will issue a voucher for a particular bedroom size – the bedroom size is a factor in determining the family's level of assistance. The following guidelines will determine each family's unit size without overcrowding or over-housing:

| Number of Bedrooms | Number of Persons | |
|---|---|---|
| | Minimum | Maximum |
| 0 | 1 | 1 |
| 1 | 1 | 2 |
| 2 | 2 | 4 |
| 3 | 3 | 6 |
| 4 | 4 | 8 |

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons and relate to the number of bedrooms on the voucher, not the family's actual living arrangements. The Unit size on the voucher remains the same as long as family composition remains the same, regardless of the actual unit size rented. The PHA will consider factors such as family characteristics including sex, age or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, the PHA assigns one bedroom to two people within the following guidelines but will not require adults and children to share a room:

A. Separate bedrooms for persons of the opposite sex (other than adults who have a spousal relationship and children under the age of 6 years).

B. Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.

C. Live-in aides will generally be provided a separate bedroom at intake. No additional bedrooms are provided for the aide's family.

D. Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

E. A single pregnant woman with no other family members must be treated as a two person family.

The Douglas Housing Authority may grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members.

The PHA may grant an exception upon request and documentation for an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a: verified medical or health reason or elderly persons or persons with disabilities who may require a live-in aide. Requests based on health related matters must be verified by a doctor and must state why a larger size unit than that allowed by the guidelines is necessary.

The PHA will not issue a larger voucher due to additions of family members other than by birth, adoptions, marriage or court awarded custody. When a family qualifies for a larger unit the PHA will do so at the next annual re-exam providing funding is available.

The members of the family residing in the unit must be approved by the PHA. The family must obtain approval of any additional family members before the new family member occupies the unit except for additions by birth, adoption or court ordered custody, in which case the family must inform the PHA within 30 calendar days. The above referenced guidelines will apply.

The family unit size will be determined by the Douglas Housing Authority in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a larger size, the payment standard for the family unit size will determine the maximum subsidy.

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

The assignment of bedroom sizes (as described above) applies only to the initial occupancy, and does not apply to continued occupancy. During the initial term of the lease, as a result of additions to or decreases in the family size; the subsidy standard will not be changed except at annual re-exam/re-certification. Such determination may only be made by the Director or authorized designee.

## *6.1 BRIEFING [24 CFR 982.301]*

When the Douglas Housing Authority selects a family from the waiting list, the family will be invited to attend a briefing (allowing ten (10) business days notice) explaining how the program works. In order to receive a voucher the family is required to attend the briefing. If they cannot attend the originally scheduled briefing and provide prior written notice, they may attend a later session. If the family fails to attend the second scheduled briefing, they will be dropped from the waiting list and denied admission. Applicants arriving more than 10 minutes late to a briefing will not be briefed. Applicants will not be scheduled for more than two briefings.

If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the Housing Authority will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the Housing Authority will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

Families that attend group briefings and still have the need for individual assistance will be referred to an appropriate PHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan.

The briefing will cover at least the following subjects:

A. A description of how the program works;

B. Family and owner responsibilities;

C. Where the family may rent a unit, including inside and outside the Housing Authority's jurisdiction;

D. Types of eligible housing;

E. For families qualified to lease a unit outside the Housing Authority's jurisdiction under portability, an explanation of how portability works;

F. An explanation of the advantages of living in an area that does not have a high concentration of poor families; and

G. An explanation that the family's share of rent may not exceed 40% of the family's monthly adjusted income.

### *6.2 PACKET [24 CFR 982.301(B)]*

During the briefing, the Housing Authority will give the family a packet covering at least the following subjects:

A. The term of the voucher and the Housing Authority's policy on extensions and suspensions of the term. The packet will include information on how to request an extension and forms for requesting extensions;

B. How the Housing Authority determines the housing assistance payment and total tenant payment for the family;

C. Information on the payment standard and the utility allowance schedule;

D. How the Housing Authority determines the maximum rent for an assisted unit;

E. Where the family may lease a unit. For families qualified to lease outside the Housing Authority's jurisdiction, the packet includes an explanation of how portability works;

F. The HUD-required tenancy addendum that provides the language that must be included in any assisted lease, and a sample contract;

G. The request for approval of the tenancy form and an explanation of how to request Housing Authority approval of a unit;

H. A statement of the Housing Authority's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the Housing Authority to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses. Upon request, the Housing Authority will also supply any factual information or third party verification relating to the applicant's history as a tenant or their ability to comply with material standard lease terms or any history of drug trafficking, drug-related criminal activity or any violent criminal activity;

I. The Housing Authority's subsidy standards, including when and if the Housing Authority will consider granting exceptions to the standards;

J. The HUD brochure on how to select a unit ("A Good Place to Live");

K. The HUD-required lead-based paint brochure;

L. Information on Federal, State, and local equal opportunity laws; the brochure "Fair Housing: It's Your Right;" and a copy of the housing discrimination complaint form;

M. A list of vacant units submitted by owners/agents who may be willing to lease a unit to the family or help the family find a unit;

N. Notice that if the family includes a person with disabilities, the family may request a current list of accessible units known to the Douglas Housing Authority that may be available;

O. The family's obligations under the program;

P. The grounds upon which the Housing Authority may terminate assistance because of the family's action or inaction;

Q. Douglas Housing Authority informal hearing procedures, including when the Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing; and

R. The Douglas Housing Authority owner information brochure. This brochure can be given by the applicant to a prospective owner to help explain the program.

S. "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

T. "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

U. Notice to HCV participants of their rights under the Violence against Women Act of 2005 (VAWA) and 24 CFR Part 5, Subpart L [24 CFR 5.2005(a)].

## *6.3 ISSUANCE OF VOUCHER; REQUEST FOR APPROVAL OF TENANCY [24CRF 982.301, 982.302]*

Beginning October 1, 1999, the Douglas Housing Authority will issue only vouchers. Treatment of previously issued certificates and vouchers will be dealt with as outlined in Section 21.0 Transition to the New Housing Choice Voucher Program.

When funding is available, and once all family information has been verified, their eligibility determined, their subsidy calculated, and they have attended the family briefing, the Douglas Housing Authority will issue the voucher. At this point, the family begins their search for a unit. When the family finds a unit that the owner is willing to lease under the program, the family and the owner will complete and sign a proposed

lease; the HUD required *Tenancy Addendum* and the *Request for Tenancy Approval* form. The family will submit the proposed lease and the request form to the Housing Authority during the term of the voucher. The Housing Authority will review the request, the lease, and the HUD required *Tenancy Addendum* and make an initial determination of approval of tenancy. The Housing Authority may assist the family in negotiating changes that may be required for the tenancy to be approvable. Once it appears the tenancy may be approvable, the Housing Authority will schedule an appointment to inspect the unit within 15 business days after the receipt of inspection request from the family and owner. The 15 business day period is suspended during any period the unit is unavailable for inspection. The Housing Authority will promptly notify the owner and the family whether the unit and tenancy are approvable.

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

During the initial stage of qualifying the unit, the Housing Authority will upon request provide the prospective owner with information regarding the program. Information will include Housing Authority and owner responsibilities for screening and other essential program elements. The Housing Authority will provide the owner with the family's current and prior address as shown in the Housing Authority records along with the name and address (if known) of the landlords for those addresses.

Additional screening is the responsibility of the owner. Upon request by a prospective owner, the Housing Authority will provide any factual information or third party written information they have relevant to a voucher holder's history of, or ability to, comply with standard material lease terms.

### *6.4 TERM OF THE VOUCHER [24 CFR 982.303, 982.54 (D)(11)]*

The initial term of the voucher will be 60 days and will be stated on the Housing Choice Voucher.

The Housing Authority may grant two extensions of the term, but the initial term plus any extensions will never exceed 120 calendar days from the initial date of issuance. To obtain an extension, the family must make a request in writing prior to the expiration date. A statement of the efforts the family has made to find a unit must accompany the request. A sample extension request form and a form for recording their search efforts will be included in the family's briefing packet. If the family documents their efforts and additional time can reasonably be expected to result in success, the Housing Authority will grant the length of request sought by the family or 30 days, whichever is less.

If the family includes a person with disabilities and the family requires an extension due to the disability, the Housing Authority will grant an extension allowing the family the full 120 days search time. If the Housing Authority determines that additional search time would be a reasonable accommodation, the Housing Authority may grant an additional 30 day extension beyond the 120-day period.

Upon submittal of a completed request for approval of tenancy form, the PHA will suspend the term of the voucher. The term will be in suspension until the date the Housing Authority provides notice that the request has been approved or denied. This policy allows families the full term 60 days, or more with extensions to find a unit, not penalizing them for the period during which the Housing Authority is taking action on their request. A family may submit a second request for approval of tenancy before the Housing Authority finalizes action on the first request. In this case, the suspension will last from the date of the first submittal through the Housing Authority's action on the second submittal. No more than two requests will be concurrently considered.

**Rescinding of Vouchers**

If, due to budgetary constraints, the PHA must rescind vouchers that have already been issued to families, the PHA will do so according to the instructions under each of the categories below. The PHA will first rescind vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded.

**Category 1**: Vouchers for which a Request for Tenancy Approval (RTA) and proposed lease have **not** been submitted to the PHA.

Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

**Category 2**: Vouchers for which a Request for Tenancy Approval and proposed lease have been submitted to the PHA.

Vouchers will be rescinded in order of the date and time the RTA was submitted to the PHA, starting with the most recently submitted requests.

Families who have their voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with PHA selection policies described in Chapter 4.

## *6.5 APPROVAL TO LEASE A UNIT [24 CFR 982.302, 982.305(B)]*

The Douglas Housing Authority will approve a lease if all of the following conditions are met:

A. The unit is eligible;

B. The unit is inspected by the Housing Authority and passes HQS;

C. The lease is approvable and includes the language of the tenancy addendum;

D. The rent to owner is reasonable;

E. The family's share of rent does not exceed 40% of their monthly adjusted income.

F. The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or the Housing Authority; and

G. The family continues to meet all eligibility and screening criteria.

If tenancy approval is denied, the Housing Authority will advise the owner and the family in writing and advise them also of any actions they could take that would enable the Housing Authority to approve the tenancy.

The lease term may begin only after all of the following conditions are met:

A. The unit passes the Housing Authority HQS inspection;

B. The family's share of rent does not exceed 40% of their monthly adjusted income.

C. The landlord and tenant sign the lease to include the HUD required addendum; **and**

D. The Housing Authority approves the leasing of the unit.

The Housing Authority will prepare the contract when the unit is approved for tenancy. Generally, the landlord, simultaneously with the signing of the lease and the HUD required tenancy addendum, will execute the contract. Upon receipt of the executed lease and the signed contract by the landlord, the Housing Authority will execute the contract. The Housing Authority will not pay any housing assistance to the owner until the contract is executed.

In no case will the contract be executed later than 60 days after the beginning of the lease term.

Any contract executed after the 60-day period will be void and the Housing Authority will not pay housing assistance to the owner.

### *6.6 DOUGLAS HOUSING AUTHORITY DISAPPROVAL OF OWNER [24 CFR 982.306]*

The PHA 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., deed of trust, proof of taxes for most recent year).

The Housing Authority will deny participation by an owner at the direction of HUD. The Housing Authority will also deny the owner's participation for any of the following reasons:

A. If the PHA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

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

C. The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract;

D. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;

E. The owner has engaged in drug-related criminal activity or any violent criminal activity;

F. The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program;

G. The owner has a history or practice of renting units that fail to meet State or local codes; or

H. The owner has not paid State or local real estate taxes, fines, or assessments.

I. The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the:

   1. premises by tenants, Douglas Housing Authority employees or owner employees; or

   2. surrounding residents and/or neighbors;

J. If the owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the Douglas PHA determines that approving the unit would provide reasonable accommodation for a family member with disabilities.

K. Other conflicts of interest under Federal, State, or local law.

## *6.7 INELIGIBLE/ELIGIBLE HOUSING [24 CFR 982.353]*

The following types of housing cannot be assisted under the Section 8 Tenant-Based Program:

A. A public housing or Indian housing unit;

B. A unit receiving project-based assistance under a Section 8 Program;

C. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services;

D. College or other school dormitories;

E. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;

F. A unit occupied by its owner. This restriction does not apply to cooperatives or to assistance on behalf of a manufactured home owner leasing a manufactured home space;

G. Units owned by family members; and

L. A unit receiving any duplicative Federal, State, or local housing subsidy. This does not prohibit renting a unit that has a reduced rent because of a tax credit.

M. Manufactured/Mobile Homes constructed prior to June 15, 1976.

The Douglas Housing Authority *will not approve* a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities:

A. Congregate housing

B. Group homes

C. Shared housing

D. Cooperative housing

E. Single room occupancy housing

The Douglas Housing Authority *will approve* leases for the following housing types:

A. Single family dwellings

B. Apartments

C. Manufactured/Mobile housing - Post June 15, 1976

D. Manufactured/Mobile home space rentals

### *6.8 SECURITY DEPOSIT [24 CFR 982.313]*

The owner is not required, but may collect a security deposit from the tenant in an amount not in excess of amounts charged in private market practice and not in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of the dwelling unit, the owner, subject to State or local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes 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, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

## 7.0 MOVES WITH CONTINUED ASSISTANCE [24 CFR 982.314, 982.353, 982.355(A)]

In the tenant and/or project based program, participating families are not allowed to move to another unit or change programs until the initial 12 month lease has expired and proper notice has been given to the landlord and the PHA, or if the Housing Authority has terminated the HAP contract with an owner.

The Douglas HA may issue a new voucher if the family does not owe the Douglas HA-or any other Housing Authority or landlord money in connection with a Section 8 program, has not violated a Family Obligation, has not moved and/or been issued a voucher within the last 12 months, **and** only if the Douglas HA has sufficient funding for continued assistance. If the move is necessitated for a reason other than family choice, the 12-month requirement may be waived. Mutual termination of an existing lease will not be accepted except for ADA accommodation or other mitigating circumstances.

## *7.1 WHEN A FAMILY MAY MOVE*

For families already participating in the Section 8 Program, the Douglas Housing Authority will allow the family to move to a new unit if:

A. The assisted lease for the old unit has terminated;

B. The owner has given the tenant a notice to vacate, has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant; or

C. The tenant has given proper notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner).

## *7.1A RESTRICTIONS ON MOVES* **[24 CFR 982.314, 982.552(a)]**

* Families will not be permitted to move within the PHA's jurisdiction during the initial year of assisted occupancy.

* Families will not be permitted to move outside the PHA's jurisdiction under portability procedures during the initial year of assisted occupancy.

* Families will not be permitted to move more than once in a 12-month period.

* The PHA will deny permission to move if there is insufficient funding for continued assistance.

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the PHA can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

* The PHA may deny permission to move if:

- The family has violated a family obligation.
- The family owes the PHA money.
- The family has moved or been issued a voucher within the last twelve months.

* The City of Douglas PHA may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

## *7.2 PROCEDURES REGARDING FAMILY MOVES [24 CFR 982.314]*

Families with tenant based assistance considering transferring to a new unit will be scheduled to attend a mover's briefing. All families who are moving, including any families moving into or out of the Douglas Housing Authority's jurisdiction, will be required to attend a mover's briefing prior to the Douglas Housing Authority entering a new HAP contract on their behalf.

This briefing is intended to provide the following:

A. A refresher on program requirements and the family's responsibilities. Emphasis will be on giving proper notice and meeting all lease requirements such as leaving the unit in good condition;

B. Information about finding suitable housing and the advantages of moving to an area that does not have a high concentration of poor families;

C. Payment standards, exception payment standard rent areas, and the utility allowance schedule;

D. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income;

D. Portability requirements and opportunities;

F. The need to have a reexamination conducted within 120 days prior to the move;

G. An explanation and copies of the forms required to initiate and complete the move; and

H. All forms and brochures provided to applicants at the initial briefing.

## *7.3 WHEN TO CONDUCT A NEW REEXAM FOR A FAMILY MOVE*

In all cases of a transfer or program change, a new re-exam **must be** completed if the family income or composition has changed since the last recertification (even if the last recertification/verification is less than 120 old). This will result in a new anniversary date for the family.

Families are required to give proper written notice of their intent to terminate the lease. In accordance with HUD regulations, no notice requirement may exceed 60 days or be less than 30 days. Mutual termination of an existing lease will not be accepted unless they are for ADA accommodation or other mitigating circumstances.

If the family moves from the unit before the initial term of the lease ends without approval of the owner and the Douglas Housing Authority, it will be considered a serious lease violation and cause for termination from the program.

The family is required to give the Douglas Housing Authority a copy of the notice to terminate the lease at the same time as it gives the notice to the landlord. A family's failure to provide a copy of the lease termination notice to the Douglas Housing Authority will be considered a violation of Family Obligations and is cause for termination from the program.

A family who gives notice to terminate the lease must mail the notice by certified mail or have the landlord or his agent sign a statement stating the date and time received. The family will be required to provide the certified mail receipt and a copy of the lease termination notice to the Douglas Housing Authority, or a copy of the lease termination notice and the signed statement stating the date and time the notice was received. If the landlord or his/her agent does not accept the certified mail receipt, the family will be required to provide the receipt and envelope showing that the attempt was made.

Failure to follow the above procedures may subject the family to termination from the program.

# 8.0 PORTABILITY [24 CFR 982.353]

## *8.1 GENERAL POLICIES OF THE DOUGLAS HOUSING AUTHORITY*

A family whose head or spouse has a domicile (legal residence) or works in the jurisdiction of the Douglas Housing Authority at the time the family first submits its application for participation in the program to the Douglas Housing Authority may lease a unit anywhere in the jurisdiction of the Douglas Housing Authority. The family will not have any right to lease a unit outside of the Douglas Housing Authority jurisdiction for a 12-month period beginning when the family is first admitted to the program. During this period, the family may only lease a unit located in the jurisdiction of the Douglas Housing Authority.

Families participating in the tenant based program will not be allowed to move more than once in any 12-month period and under no circumstances will the Douglas Housing Authority allow a participant to improperly break a lease. Under extraordinary circumstances, the Douglas Housing Authority may consider allowing more than one move in a 12-month period.

Families may only move to a jurisdiction where a Section 8 Program is being administered. If a family has moved out of their assisted unit in violation of the lease, is in violation of a family obligation, or owes money to the PHA, the Douglas Housing Authority will not issue a voucher, and will terminate assistance in compliance with Section 17.0, Grounds for Termination of the Lease and Contract.

## *8.2 INCOME ELIGIBILITY*

A. Admission
A family must be income-eligible in the area where the family first leases a unit with assistance in the Tenant Based Assistance Program.

B. If a portable family is already a participant in the Initial Housing Authority's Tenant Based Assistance Program, income eligibility is not re-determined.

## *8.3 PORTABILITY: ADMINISTRATION BY RECEIVING HOUSING AUTHORITY*

A. When a family utilizes portability to move to an area outside the Initial Housing Authority jurisdiction, another Housing Authority (the Receiving Housing Authority) must administer assistance for the family if that Housing Authority has a tenant-based program covering the area where the unit is located.

B. A Housing Authority with jurisdiction in the area where the family wants to lease a unit must issue the family a voucher. If there is more than one such housing authority, the Initial Housing Authority may choose which housing authority shall become the Receiving Housing Authority.

## *8.4 PORTABILITY PROCEDURES*

**A. When the Douglas Housing Authority is the Initial Housing Authority:**

1. The Douglas Housing Authority will brief the family on the process that must take place to exercise portability. The family will be required to attend an applicant or mover's briefing.

2. The Douglas Housing Authority will determine whether the family is income-eligible in the area where the family wants to lease a unit (if applicable).

3. The Douglas Housing Authority will advise the family how to contact and request assistance from the Receiving Housing Authority.

4. The PHA will use e-mail, when possible, to contact the receiving PHA; however, the Douglas Housing Authority will, within ten (10) business days, notify the Receiving Housing Authority to expect the family.

5. The Douglas Housing Authority will immediately mail to the Receiving Housing Authority the most recent HUD Form 50058 (Family Report) for the family, and related verification information.

**B. When the Douglas Housing Authority is the Receiving Housing Authority:**

1. When the portable family requests assistance from the Douglas Housing Authority, the Douglas Housing Authority will within ten (10) calendar days inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable family, or absorb the family into its own program. When the Douglas Housing Authority receives a portable family, the family can be absorbed if funds are available and a voucher will be issued. The PHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

2. The PHA will require the family to attend a briefing. The PHA will provide the family with a briefing packet and, either in an individual briefing or group setting, will orally inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

3. The Douglas Housing Authority will issue a voucher to the family, based on the paperwork provided by the initial PHA, unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The term of the Douglas Housing Authority's voucher will not expire before the expiration date of any Initial Housing Authority's voucher. The Douglas Housing Authority will determine whether to extend the voucher term. The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in this plan. The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities. The family must submit a request for tenancy approval to the Douglas Housing Authority during the term of the Douglas Housing Authority's voucher.

4. The Douglas Housing Authority will determine the family unit size for the portable family. The family unit size is determined in accordance with the Douglas Housing Authority's subsidy standards.

5. For any family moving into its jurisdiction under portability, the PHA will conduct a new reexamination of family income and composition. However the PHA will not delay issuing the family a voucher for this reason. Nor will the PHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the PHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located. In conducting its own

reexamination, the PHA will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

6. The Douglas Housing Authority will within ten (10) business days notify the Initial Housing Authority if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher. The PHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

7. In order to provide tenant-based assistance for portable families, the Douglas Housing Authority will perform all Housing Authority program functions, such as reexaminations of family income and composition. The PHA will send a copy of the updated HUD-50058 by regular mail at the same time the PHA and owner are notified of the reexamination results.

8. At any time, either the Initial Housing Authority or the Douglas Housing Authority may make a determination to deny or terminate assistance to the family in accordance with 24 CFR 982.552. When a decision to deny or terminate assistance is made, the receiving PHA must conduct an informal review or hearing for the family. If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in this Plan. The informal review or hearing will be held in accordance with the PHA's policies. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

## C. Absorption by the Douglas Housing Authority

If funding is available under the consolidated ACC for the Douglas Housing Authority's Voucher Program when the portable family is received, the Douglas Housing Authority can absorb the family into its Voucher Program. After absorption, the family is assisted with funds available under the consolidated ACC for the Douglas Housing Authority's Tenant-Based Program.

If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA 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 the PHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

**D. Portability Billing**

To cover assistance for a portable family, the Receiving Housing Authority may bill the Initial Housing Authority for housing assistance payments and administrative fees. The billing procedure will be as follows:

a. As the Initial Housing Authority, the Douglas Housing Authority will promptly reimburse the Receiving Housing Authority for the full amount of the housing assistance payments made by the Receiving Housing Authority for the portable family. The amount of the housing assistance payment for a portable family in the Receiving Housing Authority's program is determined in the same manner as for other families in the Receiving Housing Authority's program.

b. The Initial Housing Authority will promptly reimburse the Receiving Housing Authority for 80% of the Initial Housing Authority's on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Authority. If both Housing Authorities agree, we may negotiate a different amount of reimbursement.

**E. When a Portable Family Moves**

When a portable family moves out of the tenant-based program of a Receiving Housing Authority that has not absorbed the family, the Housing Authority in the new jurisdiction to which the family moves becomes the Receiving Housing Authority, and the first Receiving Housing Authority is no longer required to provide assistance for the family.

# 9.0 DETERMINATION OF FAMILY INCOME
[24 CFR Part 5, Subparts E and F; 24 CFR 982]

## *9.1 ANNUAL INCOME*

### *9.1A OVERVIEW*

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

**5.609 Annual income**
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)].<br>(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 9-1)
- Annual Income Exclusions (Exhibit 9-2)
- Treatment of Family Assets (Exhibit 9-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 9-4)
- The Effect of Welfare Benefit Reduction (Exhibit 9-5)

Sections 9.1-B and 9.1-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 9.1-D). Verification requirements for annual income are discussed in Chapter 10.

### *9.1B. 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. 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 co-head<br>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)].<br>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 co-head) | Employment income above $480/year is excluded [24 CFR 5.609(c)(11)].<br>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].

***Absent Full-Time Students***
PHA Policy
When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

***Court-Ordered Absences***
PHA Policy
If a member of the family is subject to a court order that restricts the member from the home, the PHA will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds 180 days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

***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].

PHA Policy
If a child has been placed in foster care, the PHA 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.

***Absences Due to Incarceration***
PHA Policy
If a family member is expected to be incarcerated for more than 180 consecutive days, the person will not be considered a family member. If the individual intends to return to the unit following incarceration, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

**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].

PHA Policy
The PHA 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 co-head qualifies as an elderly person or a person with disabilities.

**Joint Custody of Children**

PHA Policy

In the case of joint custody, only one family may claim a child as a dependent. When two assisted families could conceivably claim the child, the two families must resolve the issue and declare which household will receive the dependent deduction. If the two households are unable to resolve the issue, the PHA will make the determination on the basis of such factors as who claimed the child as a dependent on the most recent income tax filing and how much time the child spends in each household.

**Caretakers for a Child**

PHA Policy

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

(1) 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.

(2) 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 the PHA will extend the caretaker's status as an eligible visitor.

(3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

(4) 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.

### *9.1C ANTICIPATING ANNUAL INCOME*

The PHA 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**
The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA 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)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHA Policy
When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA 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. Anytime 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 the PHA to show why the historic pattern does not represent the family's anticipated income.

***Known Changes in Income***
If the PHA 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.

**Example:** An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy does not require interim reexaminations for other types of changes.

**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 PHAs to use UIV information in conjunction with family-provided documents to anticipate income [UIV].

PHA Policy

PHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the PHA interview date.

The PHA 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. HUD defines *substantial difference* as a difference of $200 or more per month.

**No Substantial Difference**

If UIV information for a particular income source differs from the information provided by a family by less than $200 per month, the PHA will follow these guidelines:

- If the UIV figure is less than the family's figure, the PHA will use the family's information.
- If the UIV figure is more than the family's figure, the PHA 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, the PHA 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 $200 or more per month, the PHA will follow these guidelines:

- The PHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).
- When the PHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the PHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- The PHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.
- The PHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

## *9.1D 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)].

PHA Policy

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA 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, the PHA will count only the amount estimated by the employer.

- ***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)]. 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. Such income is not counted.

- ***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 co-head) 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)

- ***Resident Service Stipend.*** Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual 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 [24 CFR 5.600(c)(8)(iv)].

- ***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)].

  PHA Policy

  The PHA 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].

  The PHA 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, the PHA 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 the PHA'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.

  PHA Policy
  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.

### *9.1E 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. 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."

PHA Policy

The PHA 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.

PHA Policy

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.

***Lifetime Limitation.***

The EID applies for a straight 24-month period, with a clear start date and end date, irrespective of whether a family maintains continual employment during the 24-month period. 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. For families enrolled and participating in EID prior to the effective date of this regulation, the previous requirements will continue to apply. (§§5.617, 960.255)

PHA Policy
During the 24-month eligibility period, the PHA 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 24-month eligibility period).

### *9.1F 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].

PHA Policy
To determine business expenses that may be deducted from gross income, the PHA 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 the PHA to deduct from gross income expenses for business expansion.

PHA Policy
*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 the PHA to deduct from gross income the amortization of capital indebtedness.

PHA Policy
*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA 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 the PHA 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.

PHA Policy
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, the PHA 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**
PHA Policy
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.

## *9.1G ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]*

**Overview**
There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 9-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 9-4 provides the regulatory definition of *net family assets* as well as a chart from the *HCV Guidebook* that summarizes asset inclusions and exclusions. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

**General Policies**

***Income from Assets***
The PHA 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 the PHA 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) the PHA 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, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

PHA Policy

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 the PHA 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 the PHA to make a distinction between an asset's market value and its cash value.

- 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. Examples of acceptable costs include 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, 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 9.1-H and 9.2-I.)

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

When net family assets are $5,000 or less, the PHA 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, the PHA 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 the PHA 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."

PHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA 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, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA 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 the PHA 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*

The *HVC Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

PHA Policy

The PHA 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 non-revocable 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***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

PHA Policy

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***

PHA Policy

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. The PHA may verify the value of the assets disposed of if other information available to the PHA 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*. If a checking account does not bear interest, the anticipated income from the account is zero.

PHA Policy

- In determining the value of a checking account, the PHA will use the average monthly balance for the last six months.
- In determining the value of a savings account, the PHA will use the current balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the PHA 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.

PHA Policy

In determining the market value of an investment account, the PHA 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), the PHA 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 (as determined by the local tax assessor) 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].

The PHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the PHA will use the basic loan balance information to deduct from the market value in the equity calculation.

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

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 the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

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 CFR5.603(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]

- 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.

PHA Policy

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 the PHA 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 9.1-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, the PHA 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 9.1-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].

PHA Policy
In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. However, the PHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot 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)].
PHA Policy
Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, 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.

## *9.1H 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 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)].

PHA Policy

When a delayed-start payment is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA 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 the PHA.

**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)]

  PHA Policy

  The PHA 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)]
- 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 Child Care 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)].

### *9.1-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 [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 9.1-G.)

### *9.1J 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]**
The PHA must 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 9-5. 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, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency inform the PHA 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)].

## *9.1K 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**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

PHA Policy

The PHA will count court-awarded amounts for alimony and child support unless the PHA 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.

**Regular Contributions or Gifts**

The PHA must 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)].

PHA Policy

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.

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

### *9.1L 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)]
- The amount of student financial assistance paid directly to the student or to the educational institution … residing in a Section 8 assisted unit with his or her parents or who reside with parents who are applying to receive Section 8 assistance" [24 CFR 5.609(c)(6)]
- 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:
  - (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 sub marginal 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 $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)

(i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the 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 child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care 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)

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

## *9.2 ADJUSTED INCOME*

### *9.2. A INTRODUCTION*

**Overview**

HUD regulations require PHAs 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) Un-reimbursed medical expenses of any elderly family or disabled family;
> (ii) Un-reimbursed 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 child care 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 10.

**Anticipating Expenses**

PHA Policy

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

If a family has an accumulated debt for medical or disability assistance expenses, the PHA 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. The PHA may require the family to provide documentation of payments made in the preceding year.

### *9.2 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 co-head 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)].

### *9.2 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, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

### *9.2 D MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]*

Un-reimbursed 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 co-head 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."

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

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

PHA Policy
This policy applies only to families in which the head, spouse, or co-head 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, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

### *9.2 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.

PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the PHA 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 the PHA 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].

HUD advises PHA's to further define and describe auxiliary apparatus [VG, p. 30].

***Eligible Auxiliary Apparatus***

PHA Policy

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.

PHA Policy

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, the PHA 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.

PHA Policy
The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA 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**
PHA Policy
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, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## *9.2 F CHILD CARE EXPENSE DEDUCTION*

HUD defines *child care 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 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."

**Clarifying the Meaning of *Child* for This Deduction**

Child care 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].

PHA Policy

For the purposes of child care expenses, the PHA defines *child* to include any foster children under the age of 13 living in an assisted family's household [HCV GB, p. 5-29].

**Qualifying for the Deduction**

***Determining Who Is Enabled to Pursue an Eligible Activity***

PHA Policy

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 child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA 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.

***1) Seeking Work***

PHA Policy

If the child care 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 child care expense being allowed by the PHA.

***2) Furthering Education***

PHA Policy

If the child care 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 child care claimed.

***3) Being Gainfully Employed***

PHA Policy

If the child care 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 child care 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 Child Care 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 child care – although the care must still be necessary and reasonable. However, when child care 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, child care 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, child care expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of child care. 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].

PHA Policy

When the child care 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, the PHA generally will limit allowable child care 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 Child Care Expenses**

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

***Allowable Child Care Activities***

PHA Policy

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 child care.

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child care 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 child care 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***

Child care 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 child care provider verifies, that the expenses are not paid or reimbursed by any other source.

PHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care 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 child care costs, the PHA will use the schedule of child care costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

## 10.0 VERIFICATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

***INTRODUCTION***

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

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

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

## *10.1 GENERAL VERIFICATION REQUIREMENTS*

### *10.1 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 the PHA or HUD determines is necessary to the administration of the program and must consent to PHA 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 the PHA 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 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, the PHA 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 PHA procedures.

### *10.1 B OVERVIEW OF VERIFICATION REQUIREMENTS*

**HUD's Verification Hierarchy**

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Third-party Written Verification

- Third-party Oral Verification
- Review of Documents
- Self-Certification

### *10.1 C UP-FRONT INCOME VERIFICATION (UIV)*

Up-front income verification (UIV) refers to the PHA'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 the PHA.

The PHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the PHA 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 the PHA.

The PHA 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. 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 this Plan.

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 the PHA 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 the Program Integrity chapter of this Plan.

The PHA will generate the Income Discrepancy Report at least once every 6 months. When the PHA determines that a participant appearing on the Income Discrepancy Report has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed. The PHA 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, the PHA will request written third-party verification of the income in question.

When the PHA 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 of the PHA.

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

The PHA will inform all applicants and participants of its use of UIV resources (EIV System) during the admission and reexamination process.

**Definition of Substantial Difference**

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using $200 per month as the threshold for a substantial difference. The PHA will therefore use $200 per month as the threshold for a substantial difference.

See Chapter 9 for the PHA's policy on the use of UIV to project annual income and for the PHA's threshold for substantial difference.

**When No Substantial Difference Exists**

If UIV information does not differ substantially from family information, the UIV documentation may serve as third-party written verification.

**When a Substantial Difference Exists**

When there is a substantial difference between the information provided by the UIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

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

**Requirements for Acceptable Documents**

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the PHA. The documents must not be damaged, altered or in any way illegible. The PHA 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, the PHA would accept the most recent report. Print-outs from web pages are considered original documents.

The PHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed in the presence of a PHA representative or PHA notary public.

**File Documentation**
The PHA must 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 the PHA 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.

### *10.1 D THIRD-PARTY WRITTEN AND ORAL VERIFICATION*

**Reasonable Effort and Timing**
Unless third-party verification is not required as described below, HUD requires the PHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

PHA Policy
The PHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The PHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The PHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the PHA will request third-party oral verification.

The PHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, PHA 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 the PHA 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, the PHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the PHA will use any information provided orally in combination with reviewing family-provided documents (see below).

**When Third-Party Information is Late**

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

**When Third-Party Verification is Not Required**

***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.

***Certain Assets and Expenses***

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

PHA Policy

The PHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $500 annually ***and*** the family has original documents that support the declared amount.

***Certain Income, Asset and Expense Sources***

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

PHA Policy

The PHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

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

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

### *10.1 E REVIEW OF DOCUMENTS*

**Using Review of Documents as Verification**
If the PHA has determined that third-party verification is not available or not required, the PHA will use documents provided by the family as verification.

The PHA may also review documents when necessary to help clarify information provided by third parties. In such cases the PHA will document in the file how the PHA arrived at a final conclusion about the income or expense to include in its calculations.

### *10.1 F SELF-CERTIFICATION*

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

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

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a PHA representative or PHA notary public.

## *10.2 VERIFYING FAMILY INFORMATION*

### *10.2 A VERIFICATION OF LEGAL IDENTITY*

PHA Policy
The PHA 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 | • Certificate of birth<br>• Adoption papers |

| | |
|---|---|
| • Current, valid driver's license or department of Motor Vehicle identification card<br>• U.S. military discharge (DD 214)<br>• U.S. passport<br>• Employer identification card | • Custody agreement<br>• Health and Human Services ID<br>• School records |

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

Legal identity will be verified on an as needed basis.

### *10.2 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.

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

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual.
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

The PHA 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.

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

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

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA 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. The PHA may not add the new household member until such documentation is provided.

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

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. Social security numbers must be verified only once during continuously-assisted occupancy.

The PHA 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 the individual's status is classified as "verified" in HUD's EIV system, the PHA will remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

### *10.2 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.

PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA 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 must be verified only once during continuously-assisted occupancy.

### *10.2 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.

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

**Marriage**
PHA Policy
Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the 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**
PHA Policy

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

- A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
- A copy of a court-ordered maintenance or other court record is required to document a separation.
- If no court document is available, documentation from a community-based agency will be accepted.

**Absence of Adult Member**
PHA Policy
If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**
PHA Policy
Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## *10.2 E VERIFICATION OF STUDENT STATUS*

PHA Policy
The PHA 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 claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a child care deduction to enable a family member to further his or her 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.

The PHA 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
- The student is at least 24 years old.
- The student is a veteran
- The student is married.
- The student has at least one dependent child.
- The student is a person with disabilities, and was receiving assistance prior to November 30, 2005.

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

***Independent Student***
The PHA 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/or 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.*
- 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.

### *10.2 F DOCUMENTATION OF DISABILITY*

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA 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**
The PHA will attempt to obtain information about disability benefits through the HUD UIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD UIV System or TASS is not available, the PHA will attempt to obtain third-

party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

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, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

**Family Members Not Receiving SSA Disability Benefits**
For family members claiming disability who do not receive SSI or other disability payments 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.

### *10.2 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 PHA 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 NON-CITIZEN or an ineligible NON-CITIZEN and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

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

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

PHA Policy
Family members who claim U.S. citizenship or national status will be required to provide State Certified birth certificates or certificate of Naturalization.

**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 NON-CITIZENs 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 10-2 at the end of this chapter summarizes documents family members must provide.

***PHA Verification*** [HCV GB, pp. 5-3 and 5-7]
For family members who claim to be eligible immigrants, the PHA must verify immigration status with the Bureau of Citizenship and Immigration Services (BCIS).
The PHA will follow all BCIS protocols for verification of eligible immigration status.

### *10.2 H VERIFICATION OF PREFERENCE STATUS*

The PHA must verify any preferences claimed by an applicant.
PHA Policy
The PHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The PHA will verify this preference using the PHA's termination records.

## *10.3 VERIFYING INCOME AND ASSETS*

Chapter 9 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 must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### *10.3 A EARNED INCOME*

PHA Policy
**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.

### *10.3 B BUSINESS AND SELF EMPLOYMENT INCOME*

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The PHA 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 the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements. If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### *10.3 C PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS*

To verify the SS/SSI benefits of participants, the PHA 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 HUD systems, the PHA 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) the PHA 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 or contacting the local Social Security office. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

### *10.3 D ALIMONY OR CHILD SUPPORT*

PHA Policy

The way the PHA 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 payments***, verification will be sought in the following order.

- If payments are made through a state or local entity, the PHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- 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.

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

### *10.3 E ASSETS AND INCOME FROM ASSETS*

**Assets Disposed of for Less than Fair Market Value**
The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy
The PHA will verify the value of assets disposed of only if:

- The PHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

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

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

### *10.3 F NET INCOME FROM RENTAL PROPERTY*

PHA Policy

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, the PHA 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.

### *10.3 G RETIREMENT ACCOUNTS*

PHA Policy

When third-party verification is not available, the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the PHA 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, the PHA 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, the PHA 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.

### *10.3 H INCOME FROM EXCLUDED SOURCES*

A detailed discussion of excluded income is provided in Chapter 9.

The PHA must obtain verification for income exclusions only if, without verification, the PHA 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, the PHA will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

PHA Policy
The PHA 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, the PHA will report the amount to be excluded as indicated on documents provided by the family.

### *10.3 I ZERO ANNUAL INCOME STATUS*

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

### *10.4 VERIFYING MANDATORY DEDUCTIONS*

### *10.4 A DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS*

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

**Dependent Deduction**
See Chapter 9 for a full discussion of this deduction.

The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head 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 9for a discussion of the deduction. The PHA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

### *10.4 B MEDICAL EXPENSE DEDUCTION*

Policies related to medical expenses are found in Chapter 9. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**

PHA Policy

The PHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future.
- The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- 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, the PHA must 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 co-head is at least 62, or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 10.4-A of this plan.

**Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 9 for the PHA's policy on what counts as a medical expense.

**Unreimbursed Expenses**

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

PHA Policy
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**
PHA Policy
When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

### *10.4 C DISABILITY ASSISTANCE EXPENSES*

Policies related to disability assistance expenses are found Chapter 9. The amount of the deduction will be verified following the standard verification procedures described in Part I.

**Amount of Expense**
***Attendant Care***
PHA Policy
The PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

***Auxiliary Apparatus***
PHA Policy
The PHA will provide a third-party verification form directly to the apparatus provider requesting the needed information.

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, 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

- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 10.2-F above).
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.

**Family Member is a Person with Disabilities**
To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities.

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

PHA Policy
The PHA will seek 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.

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.

PHA Policy
An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any 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.

### *10.4 D CHILD CARE EXPENSES*

Policies related to child care expenses are found in Chapter 9. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care.
- 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 child care.
- The costs are reasonable.

**Eligible Child**
To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 10.2-C.).

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

PHA Policy
The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

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

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

***Seeking Work***
Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.
In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

***Furthering Education***
The PHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

***Gainful Employment***
The PHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

**Allowable Type of Child Care**
The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 9.

PHA Policy

- The PHA will verify that the type of child care selected by the family is allowable.
- The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).
- The PHA will verify that the child care 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 child care costs can be deducted.
PHA Policy
The actual costs the family incurs will be compared with the PHA'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, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## Exhibit 10-1: Excerpt from HUD Verification Guidance Notice (PIH 2004-01, p. 11-4)

| | |
|---|---|
| **Upfront (UIV)** | **Highest (Highly Recommended, highest level of third party verification)** |
| **Written 3rd Party** | **High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)** |
| **Oral 3rd Party** | **Medium (Mandatory if written third party verification is not available)** |
| **Document Review** | **Medium-Low (Use on provisional basis)** |
| **Tenant Declaration** | **Low (Use as a last resort)** |

| Income Type | Upfront | Written Third Party | Oral Third Party | Document Review | Tenant Declaration |
|---|---|---|---|---|---|
| | (LEVEL 5) | (LEVEL 4) | (LEVEL 3) | (LEVEL 2) | (LEVEL 1) |
| Wages/Salaries | Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. | The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information. | In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information. | When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |
| | Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information. | The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form. | | | |
| | Use of HUD systems, when available. | | | | |

**Verification of Employment Income:** The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.
**Effective Date of Employment:** The PHA should always confirm start and termination dates of employment.

| Income Type | Upfront | Written Third Party | Oral Third Party | Document Review | Tenant Declaration |
|---|---|---|---|---|---|
| | (LEVEL 5) | (LEVEL 4) | (LEVEL 3) | (LEVEL 2) | (LEVEL 1) |
| Self-Employment | Not Available | The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information. | The PHA may call the source to obtain income information. | The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. **Note:** The PHA must document in the tenant file, the reason third party verification was not obtained. | The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |
| **Verification of Self-Employment Income:** Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement. | | | | | |
| Social Security Benefits | Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports. | The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)** | The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)** | The PHA may accept an original SSA Notice from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |
| Welfare Benefits | Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person. | The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information. | The PHA may call the local Social Services Agency to obtain current benefit amount. | The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |

| Income Type | Upfront | Written Third Party | Oral Third Party | Document Review | Tenant Declaration |
|---|---|---|---|---|---|
| | (LEVEL 5) | (LEVEL 4) | (LEVEL 3) | (LEVEL 2) | (LEVEL 1) |
| Child Support | Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person. | The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status. | The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status. | The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |
| Unemployment Benefits | Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.<br><br>Use of HUD systems, when available. | The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information. | The PHA may call the State Wage Information Collection Agency to obtain current benefit amount. | The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |
| Pensions | Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person. | The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information. | The PHA may call the pension provider to obtain current benefit amount. | The PHA may review an original benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The PHA must document in the tenant file, the reason third party verification was not available. |

| Income Type | Upfront | Written Third Party | Oral Third Party | Document Review | Tenant Declaration |
|---|---|---|---|---|---|
| | (LEVEL 5) | (LEVEL 4) | (LEVEL 3) | (LEVEL 2) | (LEVEL 1) |
| Assets | Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person. | The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information. | The PHA may call the source to obtain asset and asset income information. | The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.** | The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.** |
| **Comments** | Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review. | **Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source. | The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount. | | The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. **Notarized statement should include a perjury penalty statement.** |

**Note:** The PHA must not pass verification costs along to the participant.

**Note:** In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)

**Exhibit 10-2: Summary of Documentation Requirements for NON-CITIZENs [HCV GB, pp. 5-9 and 5-10]**

**All NON-CITIZENs** 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 NON-CITIZENs must sign a verification consent form Additional documents are required based upon the person's status.

**Elderly NON-CITIZENs**
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 NON-CITIZENs**

NON-CITIZENs that claim eligible immigration status also must present the applicable BCIS document. Acceptable BCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival - Departure Record annotated with one of the following:
  - "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 BCIS"
- Form I-94 Arrival - Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a BCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a BCIS 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).
- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".
- Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12"
- A receipt issued by the BCIS 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 BCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register.*

## 11.0 RENT AND HOUSING ASSISTANCE PAYMENT

### *11.1 GENERAL*

After October 1, 1999, the Douglas Housing Authority will issue only vouchers to applicants, movers, and families entering the jurisdiction through portability.

### *11.2 RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]*

The HCV regulations at 24 CFR 982.507 provide that the PHA may not approve a lease until the public housing authority (PHA) determines that the initial rent to owner is a reasonable rent. In order for the rent to be reasonable, the rent may not be more than rent charged by the owner for comparable unassisted units on the premises.

In order to assure that a fair rent is paid for units selected for participation in the Section 8 program, and the Section 8 program does not have the effect of inflating rents in the community. The Douglas Housing Authority HQS inspector position will conduct rent reasonableness surveys, checklist and certifications for review by, Housing Manager when units are placed under HAP for the first time and for review by Occupancy Specialist when owners request annual or special contract rent adjustment. Rent Reasonableness determination will be determined by The Douglas Housing Authority as described above in the following four instances:

1) Before entering into a HAP contract.
2) Before any increase in rent to owner.
3) If there is a five percent decrease in the published FMR (for the unit size rented by the family) in effect 60 days before the contract anniversary date as compared with FMR in effect one year before the contract anniversary date.
4) If directed by HUD.

The PHA may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the PHA.

The owner will be advised that by accepting each monthly housing assistance payment, s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the vicinity of the premises.

If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere.

In determining that the rent to owner does not exceed the rents charged for comparable unassisted units on the premises, the PHA takes into consideration the rents for those units in the premises that are not assisted under a Federal, State, or local government program, as well as other comparable units in the immediate vicinity of the contract unit.

The PHA will collect and maintain current data on market rents in the PHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or manmade 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. Subject units within a defined housing market area will be compared to similar units within the same area.

The Douglas Housing Authority will certify and document on a case-by-case basis that the approved rent:

- Does not exceed rents charged by the owner for comparable unassisted units in the private market, and
- Is reasonable in relation to rents charged by other owners for comparable units in the private market.

The following items will be used for rent reasonableness documentation:

- Square Footage
- Number of Bathrooms
- Number of Bedrooms
- Location
- Unit type
- Quality
- Amenities
- Facilities
- Age of Unit
- Management and Maintenance Services
- Utilities

**Rent Reasonableness Methodology**

Information is gathered on rental units in the Douglas Housing Authority's market area, and each unit is rated, using the PHA's rent reasonableness system. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared to those factors of comparable unassisted units in the database to determine if rent for that particular unit is reasonable.

The Douglas Housing Authority:

- Will advise the family as to whether the rent is reasonable.
- Will assist the family in negotiating the owner's rent if requested by the family.
- Will disapprove the rent if it is not reasonable, using rent comparables. The rent will be determined "unreasonable" if it exceeds rent comparables by more than 10%.

## UTILITY ALLOWANCES

- The Douglas Housing Authority will establish a utility allowance schedule based on the typical cost of utilities within the City of Douglas limits.
- Utility allowances are used to determine the Gross Rent for a unit and to compute the family's Tenant Rent.
- Approved utility allowance schedules will be given to families along with their Certificates or Voucher so they can compare the Gross Rents of units being considered within the FMR for the Certificate Program and to determine the amount of subsidy in the Voucher Program.
- The same schedule will be used by Douglas Housing Authority to record the actual allowance for the unit the family selects if there are tenant paid utilities.
- The Douglas Housing Authority allowances are intended to be adequate to cover a family's actual energy consumption.
- Three major variables are considered in establishing utility allowance schedules:
  - Unit size
  - Structure type
  - Fuel type
- Depending on the housing stock within the Douglas Housing Authority locality, separate utility allowances will be established for the following unit types:
  - Detached houses
  - Duplexes, row or townhouses
  - Garden and high-rise apartments
  - Manufactured homes
- The Douglas Housing Authority will review utility allowance schedules annually and make changes when the utility allowance study shows a 10% increase from the previous approved utility allowance schedule.

## PAYMENT STANDARDS [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the PHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The PHA will establish a single voucher payment standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the PHA will establish payment standard amounts for each "unit size". The PHA may have a higher payment standard within the PHA's jurisdiction if needed to expand housing opportunities outside areas of minority or

poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The PHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

Changes to payment standard amounts will be effective on December 1st of every year, unless based on the proposed FMRs, it appears that one or more of the PHA's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the PHAs payment standards will be effective October 1st instead of December 1st.

**ANNUAL RENT ADJUSTMENTS**

- Owners may request Contract Rent increases annually to be effective on or after the anniversary date of the HAP Contract.
- The Douglas Housing Authority will not process Contract Rent increases unless the owner requests one.
- Before a Contract Rent adjustment is approved, the Douglas Housing Authority will determine & document the following:
  - The unit is in decent, safe and sanitary condition, and
  - The owner is in compliance with the terms of the HAP Contract and lease.
  - Rent adjustments are not subject to the FMR limitation, but are subject to: The limitation of the published Annual adjustment factors, and the rent reasonableness test.
  - Use the checklist form to document the rent increase is rent reasonable or not.
- The Annual Adjustment Factor is the figure published in the Federal Register which impacts the maximum amount of rent the owner can receive.
- The Federal Register publishes two separate adjustment factors for each market areas:
  - A factor which is used when the Contract Rent includes the highest cost utility, and
  - A factor which is used when the Contract Rent does not include the highest Cost utility.
- To compute the maximum annual rent adjustment, The Douglas Housing Authority will multiply the Contract Rent in effect by the applicable Section 8 Annual Adjustment Factor. The result must be rounded to the next higher whole dollar amount.

**SPECIAL RENT ADJUSTMENT**

- Owners may submit a request for a special rent adjustment (over and above the annual adjustment) but must document the following:
  - The costs of owning and maintaining a unit have increased.
  - The increase is a result of substantial general increases in real property taxes, utility rates or similar costs such as:

1. Assessments
2. Utilities not covered by regulated rates

- The annual Contract Rent adjustment does not compensate the owner for the increases.
- The FMR limitation does not apply to special adjustments but the rent reasonableness limitation does.
- If the Douglas Housing Authority believes the owner's request is warranted, the request is forwarded to the HUD Field Office for review and approval.

### *11.3 COMPARABILITY*

In making a rent reasonableness determination, the Housing Authority will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods. The Housing Authority will consider the location, quality, size, number of bedrooms, age, amenities, housing services, maintenance and utilities of the unit and the comparable units.

The Housing Authority will maintain current survey information on rental units in the jurisdiction. The Housing Authority will also obtain from landlord associations and management firms the value of the array of amenities.

The Housing Authority will establish minimum base rent amounts for each unit type and bedroom size. To the base, the Housing Authority will be able to add or subtract the dollar value for each characteristic and amenity of a proposed unit.

Owners are invited to submit information to the survey at any time. Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable the Housing Authority to establish a higher value.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

### *11.4 MAXIMUM SUBSIDY*

The Fair Market Rent (FMR) published by HUD determines the maximum subsidy for a family.

For a regular tenancy under the Tenant Based Certificate Program, the FMR is the maximum initial gross rent under the assisted lease. This only applies until the transition of the merger of the Section 8 Certificate and Voucher programs as outlined in 24 CFR 982.502 is complete. For the Mod-Rehab Project Based program assistance the FMR is the maximum initial gross rent under the assisted lease.

For the Voucher Program, the maximum payment standard will be 110% of the FMR without prior approval from HUD, or the exception payment standard approved by HUD.

For a voucher tenancy in an insured or noninsured 236 project, a 515 project of the Rural Development Administration, or a Section 221(d)(3) below market interest rate project the payment standard may not exceed the basic rent charged including the cost of tenant-paid utilities.

For manufactured home space rental, the maximum subsidy under any form of assistance is the Fair Market Rent for the space as outlined in 24 CFR 982.888.

### 11.4.1 Setting the Payment Standard

HUD requires that the payment standard be set by the Housing Authority at between 90 and 110% of the FMR. The Douglas Housing Authority will review its determination of the payment standard annually after publication of the FMRs. The Douglas Housing Authority will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of voucher holders in finding units, and the percentage of annual income families are paying for rent under the Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships.

Payment standards will not be raised solely to allow the renting of luxury quality units.

If success levels are projected to be extremely high and rents are projected to be at or below 30% of income, the Housing Authority will reduce the payment standard. Payment standards for each bedroom size are evaluated separately so that the payment standard for one bedroom size may increase or decrease while another remains unchanged. The Douglas Housing Authority may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, the Housing Authority will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

### 11.4.2 Selecting the Correct Payment Standard for a Family

A. For the voucher tenancy, the payment standard for a family is the lower of:

1. The payment standard for the family unit size; or

2. The payment standard for the unit size rented by the family.

B. If the unit rented by a family is located in an exception rent area; the Housing Authority will use the appropriate payment standard for the exception rent area.

C. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:

1. The initial payment standard (at the beginning of the lease term) minus any amount by which the initial rent to owner exceeds the current rent to owner; or

2. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

D. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph C above does not apply.

E. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.

## *11.5 ASSISTANCE AND RENT FORMULAS*

A. Total Tenant Payment
The total tenant payment is equal to the highest of:

1. 10% of monthly income

2. 30% of adjusted monthly income

3. Minimum rent

4. The welfare rent
Plus any rent above the payment standard.

B. Minimum Rent
$50.00 minimum rent is effective immediately for new lease-ups and at the next annual recertification for existing families.

A family may request a hardship if:

1. 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.

2. 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.

3. Family income has decreased because of changed family circumstances, including the loss of employment.

4. 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).

5. The family has experienced other circumstances determined by the PHA.

The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

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. The PHA will make the determination of hardship within 30 calendar days.

**Temporary Hardship** - If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement on

terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

**Long Term Hardship** - If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. Repayment of the minimum rent for the period of the long-term hardship is not required.

The hardship period ends when any of the following circumstances apply:

1. At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
3. For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

C. Section 8 Merged Vouchers

1. The payment standard is set by the Housing Authority between 90% and 110% of the FMR or higher or lower with HUD approval.

2. The participant pays the greater of the Total Tenant Payment or the minimum rent, plus the amount by which the gross rent exceeds the payment standard.

5. No merged voucher participant when initially receiving tenant-based assistance on a unit shall pay more than 40% of their monthly-adjusted income.

D. Section 8 Preservation Vouchers

1. Payment Standard

a. The payment standard is the lower of:

i. The payment standard amount for the appropriate family unit size; or

ii. The payment standard amount for the size of the dwelling unit actually rented by the family.

b. During the HAP contract term, the payment standard for the family is the higher of :

i. The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraph (1)(a) or (1)(b) of this section, minus any amount by which the initial rent to the owner exceeds the current rent to the owner; or

ii. The payment standard as determined in accordance with paragraph (1)(a) or (1)(b) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

c. At the next regular reexamination following a change in family composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:

i. Paragraph (c)(i) of this section does not apply; and

ii. The new family unit size must be used to determine the payment standard.

2. The Douglas Housing Authority will pay a monthly housing assistance payment on behalf of the family that equals the lesser of:

a. The payment standard minus the total tenant payment; or

b. The gross rent minus the total tenant payment.

E. Manufactured Home Space Rental: Section 8 Vouchers

1. The payment standard for a participant renting a manufactured home space is the published FMR for rental of a manufactured home space.

2. The space rent is the sum of the following as determined by the Housing Authority:

a. Rent to the owner for the manufactured home space;

b. Owner maintenance and management charges for the space; and

c. Utility allowance for tenant paid utilities.

3. The participant pays the rent to owner less the HAP.

4. HAP equals the lesser of:

a. The payment standard minus the total tenant payment; or

b. The rent paid for rental of the real property on which the manufactured home owned by the family is located.

F. Rent for Families under the Non-citizen Rule

A mixed family will receive full continuation of assistance if all of the following conditions are met:

1. The family was receiving assistance on June 19, 1995;
2. The family was granted continuation of assistance before November 29, 1996;
3. The family's head or spouse has eligible immigration status; and
4. The family does not include any person who does not have eligible status other than the head of household, the spouse of the head of household, any parent of the head or spouse, or any child (under the age of 18) of the head or spouse.

If a mixed family qualifies for prorated assistance but decides not to accept it, or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision the family receives full assistance. If assistance is granted under this provision prior to November 29, 1996, it may last no longer than three years. If granted after that date, the maximum period of time for assistance under the provision is 18 months. The Douglas Housing Authority will grant each family a period of 6 months to find suitable affordable housing. If the family cannot find suitable affordable housing, the Douglas Housing Authority will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

1. Determine gross rent for the unit. (Gross rent is contract rent plus any allowance for tenant paid utilities).
2. Determine Total Tenant Payment (TTP). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
3. Subtract TTP from Gross rent.
4. Multiply the amount determined in Step 3 by a fraction for which:
   A. The numerator is the number of family members who have established eligible immigration status; and

   B. The denominator is the total number of family members.

5. The amount determined in Step 4 is the prorated housing assistance payment for a mixed family.

## *11.6 UTILITY ALLOWANCE*

The Housing Authority maintains a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)).

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the Housing Authority uses normal patterns of consumption for the community as a whole and current utility rates.

The Housing Authority reviews the utility allowance schedule annually and revises any allowance for a utility category if there has been a change of 10% or more in the utility rate since the last time the utility allowance schedule was revised. The Housing Authority maintains information supporting the annual review of utility allowances and any revisions made in its utility allowance schedule.

The Housing Authority uses the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the Housing Authority subsidy standards).

At each reexamination, the Housing Authority applies the utility allowance from the most current utility allowance schedule.

The Housing Authority will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

The utility allowance will be subtracted from the family's share to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belong to the tenant.

## *11.7 DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT*

The Housing Authority pays the owner the lesser of the housing assistance payment or the rent to owner.

## *11.8 CHANGE OF OWNERSHIP*

The Douglas Housing Authority requires a written request by the owner who executed the HAP contract in order to make changes regarding who is to receive the Douglas Housing Authority's rent payment or the address as to where the rent payment should be sent.

In addition, the Douglas Housing Authority requires a written request from the new owner to process a change of ownership. The following documents must accompany the written request:

A. A copy of the escrow statement or other document showing the transfer of title and recorded deed;

B. A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, and the social security number of the new owner;

C. The effective date of the HAP contract assignment;

D. A written agreement to comply with the terms of the HAP contract;

E. Confirmation that the new owner is not a prohibited relative

The Douglas Housing Authority may withhold the rent payment until the taxpayer identification number is received. If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the owner may do so at the family's anniversary date.

### *11.9 PROTECTING TENANTS AT FORECLOSURE ACT*

Section 703 of the Protecting Tenants at Foreclosure Act (PTFA), which is part of the Helping Families Save Their Homes Act of 2009 (Public Law 111-22, approved May 20, 2009); and

The American Recovery and Reinvestment Act of 2009 (Public Law 111-5, approved February 17, 2009)(Recovery Act) under the heading "Community Development Fund" in Title XII of Division A:

Amends the statute governing the Section 8 Program (Section 8(o ) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f(o )), by requiring that each HAP contract include the following additional requirements to the owner, as shown in boldface:

(C ) Shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violations of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, …**and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effectively on the date of transfer of the unit to the owner or owner –**

> **(i) will occupy the unit as a primary residence; and**
>
> **(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.**

Additionally, Section 703 of the PTFA revised section 8(o)(F) (42 U.S.C. 1437f(o)(7)(F)), to add the language shown in bold face:

(F) May include any addenda required by the Secretary to set forth the provisions of this subsection. **In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in**

**subparagraph (C) shall not affect any State or local law that provides longer time periods or other additional protections for tenants**.

Under these new statutory provisions, the immediate successor in interest, which is the party gaining ownership through a foreclosure sale, becomes subject to the HAP contract, as also revised by statute, and there must be "good cause" other than vacating the property prior to sale in order to terminate the existing tenancy.

Foreclosed properties in which section 8 voucher recipients reside must comply with Sections 702 and 703 of the PTFA. If the immediate successor-in-interest will use the unit as a primary residence, the lease can be terminated effective on the date of the sale. In such cases, the tenant is still entitled to a minimum of 90 days notice to vacate. Section 702 is discussed in more detail in PIH Notice 2009-17. These statutory provisions sunset on December 31, 2012.

Tenant Protections under the Neighborhood Stabilization Program (NSP)

The Recovery Act provides further tenant protections in the case of any qualified foreclosed housing assisted under the Neighborhood Stabilization Program (NSP) and in which the resident receives Section 8 assistance. If the housing is assisted with NSP funds after February 17, 2009 and the PHA is unable to make HAP payments to the successor in interest after foreclosure due to (1) rejection of the payments; (2) other action or inaction by the successor, such as failure to maintain the property in accordance with Section 8 requirements; or (3) inability to identify the successor – the PHA may use the funds that would have been used to pay the rental amount for the following purposes:

- To pay the utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or

- To pay for the family's reasonable moving costs, including security deposit costs.

In addition to the above, the Recovery Act provides that any recipient of a NSP grant or loan after February 17, 2009 may not refuse to lease a dwelling unit assisted with such grant or loan to a participant in the Section 8 program or a HCV holder because of the status of the prospective tenant as a participant or voucher holder.

**PHA Responsibilities**.
Notifications:

For every unit in which a tenant receiving Housing Choice Voucher (HCV) assistance resides and is currently provided assistance under a HAP contract, the PHA must:

A. Provide notice to the Landlord or party executing the contract of the changes in law outlined in this Notice. This Notice can be provided in the most effective manner as determined by the PHA, including but not limited to providing information at landlord meetings, providing notice with the monthly payments, or independent mailings.

B. Provide notice to the Head of Household that is receiving HCV assistance of their rights as a result of the change in law outlined in this Notice. This Notice can be provided in the most effective manner as determined by the PHA, including but not limited to providing explanations of the tenant rights at annual reexaminations, tenant meetings, case management meetings, or a direct mailing.

C. Notify HCV applicants that have been issued a voucher as well as prospective owners about the new law. A PHA may also choose to provide notice to the local entity that oversees foreclosure actions, most commonly the Sherriff's office or local courts.

Sample notice documents have been made available by the National low Income Housing Coalition and National Housing Law Project on their respective websites.

***Foreclosure Actions***

If a PHA learns that the property is in foreclosure, the PHA must:

A. Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. This information can most likely be obtained through information that has been sent to the tenant notifying them of the foreclosure, and possibly in a 90 day notice to vacate. Additionally, PHA's may review legal notices in the local newspaper or the local governments web site to keep apprised of foreclosure actions initiated against owners of HCV assisted properties.

B. Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract. With the exception of HUD-insured mortgages or loans, defaulting on a mortgage/loan is not a breach of the HAP contract.

C. Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement should include a request for owner information such as a Tax Identification Number, and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is nevertheless effective by operation of law.

D. Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.

E. If the PHA is unable to make HAP payments to the successor in interest due to: (1) An action or inaction by the successor in interest that prevents such payments, including the rejection of payments or the failure of the successor to maintain the property in accordance with Housing Quality Standards (HQS); or (2) An inability to identify the successor, the PHA should inform the family of this. In order to ensure adequate protection of the tenant's rights under the statutory authority as well as enforcing performance of the successor in interest under the HAP contract, the PHA should refer tenants, as services are needed, to the local Legal Aid Office.

The PHA must make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be (or has been) assisted under the Neighborhood Stabilization Program (NSP). The Department believes that units covered by this notice that receive such assistance will be rare. The PHA may inquire with the applicable units of local government to determine if properties occupied by Section 8 participants are under consideration for the NSP program.

In cases where the units have received assistance under the NSP, the PHA may use the funds that would have been used to pay the rent for other purposes. These other purposes include:

1. To pay utilities that are the owner's responsibility under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to pay utilities rather than make payments to the owner;

   The PHA is *not* required to notify the owner before making a utility payment if the unit has been or will be rendered uninhabitable by the termination or threat of termination of service. In that case, the PHA will notify the owner within a reasonable time after making the payment.

2. To pay the families moving costs, including security deposit costs.

3. Any funds that remain after use for these authorized purposes must only be used for housing assistance payments.

Any funds used for these purposes must be recorded and tracked in accordance with Generally Accepted Accounting Principles.

# 12.0 INSPECTION POLICIES AND HOUSING QUALITY STANDARDS [24 CFR 982.401]

The Douglas Housing Authority will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Existing Program unless the HQS is met. Units will be inspected at least annually, and at other times as needed, to determine if the units meet HQS.

The Douglas Housing Authority must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family cannot be at home for the scheduled inspection appointment, the family must call and reschedule the inspection or make arrangements to enable the Housing Authority to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, the Douglas Housing Authority will only schedule one more inspection. If the family misses two inspections, the Douglas Housing Authority will consider the family to have violated a Family Obligation and their assistance will be terminated.

## *12.1 TYPES OF INSPECTIONS*

There are seven types of inspections the Douglas Housing Authority will perform:

A. Initial Inspection - An inspection that must take place to ensure that the unit passes HQS before assistance can begin.

B. Annual Inspection - An inspection to determine that the unit continues to meet HQS.

C. Complaint Inspection - An inspection caused by the Authority receiving a complaint on the unit by anyone.

D. Special Inspection - An inspection caused by a third party, i.e. HUD, needing to view the unit. The PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that were observed and will require the responsible party to make the necessary repairs.

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

E. Emergency - An inspection that takes place in the event of a perceived emergency. These will take precedence over all other inspections.

F. Move Out Inspection (if applicable) - An inspection required for units in service before October 2, 1995, and optional after that date. These inspections document the condition of the unit at the time of the move-out.

G. Quality Control Inspection - Supervisory inspections on at least 5% of the total number of units that were under lease during the Housing Authority's previous fiscal year.

## *12.2 OWNER AND FAMILY RESPONSIBILITY*

A. Owner Responsibility for HQS

1. The owner must maintain the unit in accordance with HQS.

2. If the owner fails to maintain the dwelling unit in accordance with HQS, the Douglas Housing Authority will take prompt and vigorous action to enforce the owner obligations. The Douglas Housing Authority's remedies for such breach of the HQS include termination, abatement of or reduction of housing assistance payments and termination of the HAP contract.

3. The Douglas Housing Authority will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the Douglas Housing Authority and the Douglas Housing Authority verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects the owner must correct the defect within no more than 30 calendar days (or any Douglas Housing Authority approved extension).

4. The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible. Furthermore, the Douglas Housing Authority may terminate assistance to a family because of the HQS breach caused by the family.

B. Family Responsibility for HQS

1. The family is responsible for a breach of the HQS that is caused by any of the following:

a. The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

b. The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

c. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary 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.

2. If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any Douglas Housing Authority approved extension).

3. If the family has caused a breach of the HQS, the Douglas Housing Authority will take prompt and vigorous action to enforce the family obligations. The Douglas Housing Authority may terminate assistance for the family in accordance with 24 CFR 982.552.

## *12.3 HOUSING QUALITY STANDARDS (HQS) [24 CFR 982.401]*

This Section states performance and acceptability criteria for these key aspects of the following housing quality standards:

A. Sanitary Facilities

1. Performance Requirements

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

2. Acceptability Criteria

a. The bathroom must be located in a separate private room and have a flush toilet in proper operating condition. All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

b. The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.

c. The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.

d. The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

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

f. All sinks must have functional stoppers.

B. Food Preparation and Refuse Disposal

1. Performance Requirements

a. The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

b. There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

2. Acceptability Criteria

a. The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.

b. The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

c. The dwelling unit must have space for the storage, preparation, and serving of food.

d. There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

C. Space and security

1. Performance Requirement
The dwelling unit must provide adequate space and security for the family.

2. Acceptability Criteria
   a. At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
   b. The dwelling unit must have at least one bedroom or living/ sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

   c. Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches).

   d. All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.

   e. Windows must be weather stripped as needed to ensure a watertight seal.

   f. Window screens must be in good condition.

   g. Any room used for sleeping must have a window.

   h. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

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

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

D. Thermal Environment

1. Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

2. Acceptability Criteria

a. There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.

b. The dwelling unit must not contain un-vented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

c. If the unit contains a fireplace, the owner must certify that it is useable or not useable. If useable, it must be clean and properly vented.

E. Illumination and Electricity

1. Performance Requirement

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. The electrical fixtures and wiring must ensure safety from fire.

2. Acceptability Criteria

a. There must be at least one window in the living room and in each sleeping room.

b. The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.

c. The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

d. All electrical outlets within 6 feet of the kitchen sink and bathroom sinks must be GFCI (Ground Fault Circuit Interrupter) outlets.

F. Structure and Materials

1. Performance Requirement

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

2. Acceptability Criteria

a. Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

b. The roof must be structurally sound and weather tight.

c. The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.

d. The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.

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

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

g. All floors should have some type of baseshoe, trim, or sealing for a "finished look". Vinyl baseshoe may be used for kitchen and bathrooms.

h. Elevators must be working and safe.

G. Interior Air Quality

1. Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

2. Acceptability Criteria

a. The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.

b. There must be adequate air circulation in the dwelling unit.

c. Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.

i. Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

H. Water Supply

1. Performance Requirements
The water supply must be free from contamination.

2. Acceptability Criteria
The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

I. Lead-based Paint

1. Definitions

a. Chewable surface: Protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, window sills and frames, doors and frames, and other protruding woodwork.

b. Component: An element of a residential structure identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

c. Defective paint surface: A surface on which the paint is cracking, scaling, chipping, peeling, or loose.

d. Elevated blood level (EBL): Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

e. HEPA: A high efficiency particle accumulator as used in lead abatement vacuum cleaners.

f. Lead-based paint: A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared ($mg/cm^2$), or 0.5 % by weight or 5000 parts per million (PPM).

2. Performance Requirements

a. The purpose of this paragraph of this Section is to implement Section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning for units assisted under this part. This paragraph is issued under 24 CFR 35.24(b)(4) and supersedes, for all housing to which it applies, the requirements of subpart C of 24 CFR part 35.

b. The requirements of this paragraph of this Section do not apply to 0-bedroom units, units that are certified by a qualified inspector to be free of lead-based paint, or units designated exclusively for the elderly. The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a HAP contract under part 982.

c. If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six years, the initial and each periodic inspection (as required under this part), must include a visual inspection for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with paragraph k of this Section.

d. The Housing Authority may exempt from such treatment defective paint surfaces that are found in a report by a qualified lead-based paint inspector not to be lead-based paint, as defined in paragraph 1(f) of this Section. For purposes of this Section, a qualified lead-based paint inspector is a State or local health or housing agency, a lead-based paint inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD.

e. Treatment of defective paint surfaces required under this Section must be completed within 30 calendar days of Housing Authority notification to the owner. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces with in the 30-day period, treatment as required by paragraph k of this Section may be delayed for a reasonable time.

f. The requirements in this paragraph apply to:

i. All painted interior surfaces within the unit (including ceilings but excluding furniture);

ii. The entrance and hallway providing access to a unit in a multi-unit building; and

iii. Exterior surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age

(including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

g. In addition to the requirements of paragraph c of this Section, for a dwelling unit constructed before 1978 that is occupied by a family with a child under the age of six years with an identified EBL condition, the initial and each periodic inspection (as required under this part) must include a test for lead-based paint on chewable surfaces. Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.

h. Testing must be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, treatment of the paint surface in accordance with paragraph k of this Section is required, and treatment shall be completed within the time limits in paragraph c of this Section.

i. The requirements in paragraph g of this Section apply to all protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age:

   i. Within the unit;

   ii. The entrance and hallway providing access to a unit in a multi-unit building; and

   iii. Exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

j. In lieu of the procedures set forth in paragraph g of this Section, the housing authority may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in paragraph k of this Section.

k. Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

i. A defective paint surface shall be treated if the total area of defective paint on a component is:
   (1) More than 10 square feet on an exterior wall;

   (2) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls;

   (3) More than 10% of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, windowsills, baseboards and trim.

ii. Acceptable methods of treatment are the following: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydroblasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joint edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

iii. Prohibited methods of removal are the following: open flame burning or torching, machine sanding or grinding without a HEPA exhaust, uncontained hydroblasting or high pressure wash, and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totaling no more than twenty square feet on exterior surfaces.

iv. During exterior treatment soil and playground equipment must be protected from contamination.

v. All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

vi. Waste and debris must be disposed of in accordance with all applicable Federal, State, and local laws.

l. The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.

m. Prior to execution of the HAP contract, the owner must inform the Housing Authority and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.

n. The Housing Authority must attempt to obtain annually from local health agencies the names and addresses of children with identified EBLs and must annually match this information with the names and addresses of participants under this part. If a match occurs, the Housing Authority must determine whether local health officials have tested the unit for lead-based paint. If the unit has lead-based paint, the Housing Authority must require the owner to treat the lead-based paint. If the owner does not complete the corrective actions required by this Section, the family must be issued a voucher to move.

o. The Housing Authority must keep a copy of each inspection report for at least three years. If a dwelling unit requires testing, or if the dwelling unit requires treatment of chewable surfaces based on the testing, the Housing Authority must keep the test results indefinitely and, if applicable, the owner certification and treatment. The records must indicate which chewable surfaces in the dwelling units have been tested and which chewable surfaces were tested or tested and treated in accordance with the standards prescribed in this Section, such chewable surfaces do not have to be tested or treated at any subsequent time.

J. Access

1. Performance Requirements
The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

K. Site and Neighborhood

1. Performance Requirements

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

2. Acceptability Criteria
The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

L. Sanitary Condition

1. Performance Requirements
The dwelling unit and its equipment must be in sanitary condition.

2. Acceptability Criteria
The dwelling unit and its equipment must be free of vermin and rodent infestation. The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious and repeated violation of the lease. The PHA may terminate the family's assistance on that basis.

*** The inspector will make the determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to a mediator within 10 days of the inspection.**

M. Smoke Detectors

1. Performance Requirements
a. Except as provided in paragraph b below of this Section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

b. For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24,

1993, 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).

***Inoperable smoke detectors are a serious health threat and will be treated as an emergency (24 hour) fail item.**

**If the PHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the PHA will re-inspect the unit the following day.**

**The PHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.**

## *12.4 EXCEPTIONS TO THE HQS ACCEPTABILITY CRITERIA.*

The Douglas Housing Authority will utilize the acceptability criteria as outlined above with applicable State and local codes. Additionally, the Douglas Housing Authority has received HUD approval to require the following additional criteria:

A. In each sleeping room, there will be at least one exterior window that can be opened and that contains a screen.

B. Exterior doors must have screens for ventilation and to keep critters out.

C. Adequate cooling is required due to extremely high Arizona temperatures and shall be, at minimum, a working swamp cooler for the unit.

D. Adequate heat shall be considered to be 68 degrees.

E. If space heaters are to be installed in sleeping rooms, they should be Vented; Listed; equipped with safety shutoff device and the heater must have a label and the input rating must not exceed 30 BTU's per cubic foot of room/space in which the heater is installed.

F. In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption.

G. A ¾" overflow pipe that meets code requirements must be present on the hot water heater safety valves and installed down to within 6 inches of the floor.

## *12.5 TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS*

A. Correcting Initial HQS Fail Items

The Douglas Housing Authority will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 15 business days) upon receipt of a Request for Tenancy Approval. The owner and participant will be notified in writing of the results of the inspection. If the unit fails HQS again, the owner and the participant will be advised to notify the Douglas Housing Authority to reschedule a re-inspection when the repairs have been properly completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as failed, depending on the extent of the repairs that are required to be made. No unit will be placed in the program until the unit meets the HQS requirements.

B. HQS Fail Items for Units under Contract

The owner or participant will be given time to correct the failed items cited on the inspection report for a unit already under contract. If the failed items endanger the family's health or safety (using the emergency item list below), the owner or participant will be given 24 hours to correct the violations. For less serious failures, the owner or participant will be given up to 30 days to correct the failed item(s).

If the owner fails to correct the HQS failed items after proper notification has been given, the Douglas Housing Authority will abate payment and terminate the contract in accordance with Sections 12.7 and 17.0(B)(3).

If the participant fails to correct the HQS failed items that are family-caused after proper notification has been given, the Douglas Housing Authority will terminate assistance for the family in accordance with Sections 12.2(B) and 17.0(B)(3).

C. Time Frames for Corrections

1. Emergency repair items must be abated within 24 hours.

2. Non-emergency items must be completed within 30 days of the initial inspection.

D. Extensions

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

PHA Policy

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

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.
- The length of the extension will be determined on a case by case basis, but will not exceed 30 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.

E. Re-inspections

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA approved extension. The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the PHA 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 PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA 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.

## *12.6 EMERGENCY FAIL ITEMS [24 CFR 982.404(A)]*

The following items are to be considered examples of emergency items that need to be abated within 24 hours:

A. No hot or cold water

B. No electricity

C. Inability to maintain adequate heat

D. Major plumbing leak or flooding, waterlogged ceiling or floor in imminent danger of falling

E. Natural or LP gas or fuel oil leaks or fumes

F. Broken lock(s) on first floor doors or windows

G. Broken windows that unduly allow weather elements into the unit

H. Electrical problems which could result in shock or fire

I. Unusable toilet when only one toilet is present in the unit

J. Security risks such as broken doors or windows that would allow intrusion

K. Obstacle which prevents tenant's entrance or exit.

L. Inoperable Smoke Detectors

M. Other conditions which pose an immediate threat to health or safety such as heating and cooling

### *12.7 ABATEMENT [24 CFR 982.405, 982.453]*

When a unit fails to meet HQS and the owner has been given an opportunity to correct the deficiencies, but has failed to do so within in the required time frame, the rent for the dwelling unit will be abated.

If the corrections of deficiencies are not made within the specified time frame, the abatement will continue until the HAP contract is terminated. When the deficiencies are corrected, the Douglas Housing Authority will end the abatement the day the unit passes inspection. Rent will resume the following day and be paid the first day of the next month.

The Tenant is to be notified that their portion of the rent must still be paid to the landlord during any abatement period.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. **The tenant is not responsible for the PHA's portion of rent that is abated.**

For tenant caused HQS deficiencies, the owner will not be held accountable and the rent will not be abated. The tenant is held to the same standard and time frames for correction of deficiencies as owners. If repairs are not completed by the deadline, the Douglas Housing Authority will send a notice of termination to both the tenant and the owner. The tenant will be given the opportunity to request an informal hearing.

# 13.0 RECERTIFICATION

## *13.1 ANNUAL REEXAMINATION*

At least annually, the Douglas Housing Authority will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family subsidy is correct based on the family unit size.

The PHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

> *Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

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

The Douglas Housing Authority will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment with ten (10) business days advance notice. The letter includes forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the interview, the family will provide all information regarding income, assets, expenses, and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, the Douglas Housing Authority will determine the family's annual income and will calculate their family share.

### 13.1.1 Effective Date of Rent Changes for Annual Reexaminations

The new family share will generally be effective upon the anniversary date with 30 days notice of any rent increase to the family.

If the rent determination is delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which the family receives a 30 day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

### 13.1.2 Missed Appointments

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in the Douglas Housing Authority taking action to terminate the family's assistance.

## *13.2 INTERIM REEXAMINATIONS*

Families are required to report only the following changes between regular reexaminations within 30 calendar days of the event. These changes will trigger an interim reexamination. During an interim reexamination only the information affected by the changes being reported will be reviewed and verified.

A. Decreased Income expected to last at least 30 days.

B. All income changes for families that declare zero income and/or changes of income source e.g. new job. Other changes (e.g. COLAS or promotions are dealt with at annual).

C. A member has been added to the family through birth or adoption or court-awarded custody.

D. A household member is leaving or has left the family unit.

In order to add a household member other than through birth or adoption (including a live-in aide) the family must request that the new member be added to the lease.

Before adding the new member to the lease, the individual must complete an application form stating their income, assets, and all other information required of an applicant. The individual must provide their Social Security Number if they have one, and must verify their citizenship/eligible immigrant status. The new family member will go through the screening process similar to the process for applicants. The Douglas Housing Authority will determine the eligibility of the individual before allowing them to be added to the lease.

If the individual is found to be ineligible or does not pass the screening criteria, they will be advised in writing and given the opportunity for an informal review. If they are found to be eligible and do pass the screening criteria, the Douglas Housing Authority will grant approval to add their name to the lease. At the same time, the family's annual income will be recalculated taking into account the income and circumstances of the new family member.

In circumstances of a family break-up, the Douglas Housing Authority will make a determination of which family member will retain the voucher, taking into consideration the following factors:

A. To whom the voucher was issued.

B. The interest of minor children or of ill, elderly, or disabled family members.

C. Whether the assistance should remain with the family members remaining in the unit.

D. Whether family members were forced to leave the unit as a result of actual or threatened physical violence by a spouse or other member(s) of the household.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement of judicial decree, the Douglas Housing Authority will be bound by the court’s determination of which family members continue to receive assistance in the program.

Because of the number of possible different circumstances in which a determination will have to be made, the Douglas Housing Authority will make determinations on a case by case basis.

The Douglas Housing Authority will issue a determination within 10 business days of the request for a determination. The family member requesting the determination may request an informal hearing in compliance with the informal hearings in Section 16.3.

Families are not required to, but may at any time, request an interim reexamination based on a decrease in income, an increase in allowable expenses, or other changes in family circumstances. Upon such request, the Douglas Housing Authority will take timely action to process the interim reexamination and recalculate the family share.

### 13.2.1 Special Reexaminations

If a family's income is too unstable to project for 12 months, including families that temporarily have no income or have a temporary decrease in income, the Douglas Housing Authority may schedule special reexaminations every 60 days until the income stabilizes and an annual income can be determined.

### 13.2.2 Effective Date of Rent Changes Due to Interim or Special Reexaminations

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

## 14.0 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE DOUGLAS HOUSING AUTHORITY [24 CFR 982.54(D), 982.552(B), 982.553(A), 982.553(B)]

The Housing Authority may at any time terminate program assistance for a participant, because of any of the actions or inaction by the household:

A. If the family violates any family obligations under the program.

B. If a family member fails to sign and submit consent forms.

C. If a family fails to establish citizenship or eligible immigrant status and is not eligible for or does not elect continuation of assistance, pro-ration of assistance, or

temporary deferral of assistance. If the Douglas Housing Authority determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.

D. The PHA must terminate assistance if a participating family fails to provide the documentation or certification required for any family member who obtains a social security number or joins the family.

E. If any member of the family has ever been evicted from public housing.

F. If the Housing Authority has ever terminated assistance under the Certificate or Voucher Program for any member of the family.

G. If any member of the family commits drug-related criminal activity, 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.

Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant's family is the victim or threatened victim of that abuse.
A PHA, owner or manager may "bifurcate" a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or 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 evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant, and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for termination of leases or assistance under the relevant program of HUD-assisted housing.

The PHA has the authority under § 982.552( c ) (2) to terminate voucher assistance for certain family members while permitting other members of the participating family to continue receiving assistance (provided the culpable family member will no longer reside in the unit).

In determining whether a participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other

tenants or those employed at or providing service to a property, the PHA 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

If the tenant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

H. The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

I. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

J. If the family currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act.

K. If the family has not reimbursed any Housing Authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

L. If the family breaches an agreement with the Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority. (The Housing Authority, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a Housing Authority or amounts paid to an owner by a Housing Authority. The Housing Authority may prescribe the terms of the agreement.)

M. If the family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel.

- *Abusive or violent behavior towards PHA 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.

N. If any household member is subject to a lifetime registration requirement under a State sex offender registration program.

O. a household member's illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the Douglas Housing Authority to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

P. If the family fails to make use of the assisted unit for residency by the family. The unit must be the family's only residence. The PHA may verify family occupancy or absence through visits, telephone calls, and conversations with owners and neighbors. Mail returned to the PHA by the U.S. Postal Service may be considered as preponderance of evidence that the family is not residing in the unit.

Q. If the family is absent from the unit for more than 30 consecutive calendar days.

R. If the family is evicted by the owner for serious or repeated violations of the lease.

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. However, the PHA 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 this Plan. Upon consideration of such alternatives and factors, the PHA 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 criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Incidents or threats of abuse will not be construed as serious or repeated violations of the lease or other "good cause" for termination of assistance, tenancy, or occupancy rights of a victim of abuse.

S. Failure to report HQS violations or necessary repairs to the unit.

T. 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, and is not residing with his/her parents in an HCV assisted household, the PHA must 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.

U. If there is insufficient program funding.

The PHA will determine whether there is sufficient funding to pay for currently assisted families. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

- The PHA will terminate HAP contracts starting with Category 1 families. The PHA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

**Category 1:**
Families who have committed program fraud or abuse within the past 6 months.

Within each group below, the PHA will terminate HAP contracts according to the date the PHA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the PHA will rank the notices for that date using a random method.

- First, the PHA will terminate families who owe the PHA money but are not yet under repayment agreement.
- Second, the PHA will terminate families who owe the PHA money, are under repayment agreement, but have made at least one late payment.

- Third, the PHA will terminate families who owe the PHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

**Category 2**:
Families who committed program fraud or abuse 6-12 months ago.

Terminations based on issues unrelated to family behavior:

- First in, first out. Under this option the PHA would terminate families according to the date of the family's admission to the program, starting with those who have been receiving assistance the longest, except for elderly or disabled families. The PHA would select families for termination in the following order:
    i. Non elderly, non-disabled, single member families.
    ii. Non elderly, non-disabled families, with no children under the age of 18.
    iii. Non elderly, non-disabled families with children under the age of 18.
    iv. Elderly and disabled families.

V. Death of a Sole Family Member – The PHA must immediately terminate program assistance for deceased single member households.

**Notice of Termination of Assistance**

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states:

- The reason(s) for the proposed termination,
- The effective date of the proposed termination,
- The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- The date by which a request for an informal hearing must be received by the PHA.

If the PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant with a copy of the criminal record.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

**Required Evidence**

*Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

*Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

The PHA will terminate assistance for criminal activity by a household member, as described in this chapter, if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault or stalking, the PHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the PHA will accept either of the following forms of documentation:

A police or court record documenting the actual or threatened abuse, a record of an administrative agency, documentation from a mental health professional, or documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault 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 or other knowledgeable 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. The PHA reserves the right to waive the documentation requirement if it determines that a

statement or other corroborating evidence from the individual will suffice. The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the PHA's written request or must request an extension within that time frame. The PHA may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any PHA-approved extension, the PHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any PHA-approved extension, the PHA will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.

# 15.0 COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS

## *15.1 COMPLAINTS*

The Douglas Housing Authority will investigate and respond to complaints by participant families, owners, and the general public. The Douglas Housing Authority may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

## *15.2 INFORMAL REVIEW FOR THE APPLICANT*

A. Informal Review for the Applicant

The Douglas Housing Authority will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the Douglas Housing Authority decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

B. When an Informal Review is not Required

The Douglas Housing Authority will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the Douglas Housing Authority subsidy standards.

2. A Douglas Housing Authority determination not to approve an extension or suspension of a voucher term.

3. A Douglas Housing Authority determination not to grant approval to lease a unit under the program or to approve a proposed lease.

4. A Douglas Housing Authority determination that a unit selected by the applicant is not in compliance with HQS.

5. A Douglas Housing Authority determination that the unit is not in accordance with HQS because of family size or composition.

6. General policy issues or class grievances.

7. Discretionary administrative determinations by the Douglas Housing Authority.

C. Informal Review Process

The Douglas Housing Authority will give an applicant an opportunity for an informal review of the Douglas Housing Authority decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the Douglas Housing Authority other than the person who made or approved the decision under review or a subordinate of this person.

2. The applicant will be given an opportunity to present written or oral objections to the Douglas Housing Authority decision.

3. The Douglas Housing Authority will notify the applicant of the Douglas Housing Authority decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members (inclusive of head if household and/or spouse) who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the Douglas Housing Authority will consider documented evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or

3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

E. Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the Douglas Housing Authority provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

## *15.3 INFORMAL HEARINGS FOR PARTICIPANTS*

A. When a Hearing is Required

1. The Douglas Housing Authority will give a participant family an opportunity for an informal hearing to consider whether the following Douglas Housing Authority decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and Douglas Housing Authority policies:

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

   b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Douglas Housing Authority utility allowance schedule.

   c. A determination of the family unit size under the Douglas Housing Authority subsidy standards.

   d. A determination that a family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the Douglas Housing Authority subsidy standards, or the Douglas Housing Authority determination to deny the family's request for an exception from the standards.

   e. A determination to terminate assistance for a participant family because of the family's action or failure to act.

   f. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the Douglas Housing Authority policy and HUD rules. **(See Section 2.3 Obligations of Participant)**

2. In cases described in paragraphs 16.3(A)(1)(d), (e), and (f), of this Section, the Douglas Housing Authority will give the opportunity for an informal hearing before the Douglas Housing Authority terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is not Required

The Douglas Housing Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

1. Discretionary administrative determinations by the Douglas Housing Authority.

2. General policy issues or class grievances.

3. Establishment of the Douglas Housing Authority schedule of utility allowances for families in the program.

4. A Douglas Housing Authority determination not to approve an extension or suspension of a voucher term.

5. A Douglas Housing Authority determination not to approve a unit or lease.

6. A Douglas Housing Authority determination that an assisted unit is not in compliance with HQS. (However, the Douglas Housing Authority will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)

7. A Douglas Housing Authority determination that the unit is not in accordance with HQS because of the family size.

8. A determination by the Douglas Housing Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 16.3(A)(1)(a), (b), and (c), of this Section, the Douglas Housing Authority will notify the family that the family may ask for an explanation of its determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f), of this Section, the Douglas Housing Authority will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:

   a. Contain a brief statement of the reasons for the decision; and

   b. State that if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.

D. Hearing Procedures

The Douglas Housing Authority and participants will adhere to the following procedures:

1. Discovery

   a. The family will be given the opportunity to examine before the hearing any Douglas Housing Authority documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the Douglas Housing Authority does not make the document(s) available for examination on request of the family, the Douglas Housing Authority may not rely on the document at the hearing.

   b. The Douglas Housing Authority will be given the opportunity to examine, at the Douglas Housing Authority's offices before the hearing, any family documents that are directly relevant to the hearing. The Douglas Housing Authority will be allowed to copy any such document at the Douglas Housing Authority's expense. If the family does not make the document(s) available for examination on request of the Douglas Housing Authority, the family may not rely on the document at the hearing.

      Note: The term **document** includes records and regulations.

2. Representation of the Family
   At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

   a. The hearing will be conducted by any person or persons designated by the Douglas Housing Authority, other than a person who made or approved the decision under review or a subordinate of this person.

   b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the Douglas Housing Authority hearing procedures.

4. Evidence

   The Douglas Housing Authority and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 10 business days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

6. Effect of the Decision

The Douglas Housing Authority is not bound by a hearing decision:

a. Concerning a matter for which the Douglas Housing Authority is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the Douglas Housing Authority hearing procedures.

b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.

c. If the Douglas Housing Authority determines that it is not bound by a hearing decision, the Douglas Housing Authority will notify the family within 10 business days of the determination, and of the reasons for the determination.

e. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the

Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the Douglas Housing Authority will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or

3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

f. Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that the Douglas Housing Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision.

## 16.0 TERMINATION OF THE LEASE AND CONTRACT [24 CFR 982.311, 982.314]

The term of the lease and the term of the HAP contract are the same. They begin on the same date and they end on the same date. The lease may be terminated by the owner, by the tenant, or by the mutual agreement of both at the end of the term. The owner may only terminate the contract by terminating the lease. The HAP contract may be terminated by the Douglas Housing Authority. Under some circumstances the contract automatically terminates.

A. Termination of the lease

1. By the family

The family may terminate the lease without cause upon proper notice to the owner and to the Douglas Housing Authority after the first year of the lease. The length of the notice that is required is stated in the lease (generally 30 days).

2. By the owner.

a. The owner may terminate the lease during its term on the following grounds:

i. Serious or repeated violations of the terms or conditions of the lease;

ii. Violation of Federal, State, or local law that impose obligations on the tenant in connection with the occupancy or use of the unit and its premises;

iii. Criminal activity by the household, a guest, or another person under the control of the household that threatens the health, safety, or right to peaceful enjoyment of the premises by other persons residing in the immediate vicinity of the premises;

Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

A PHA, owner or manager may "bifurcate" a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or 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 evicting, removing, terminating assistance to, or otherwise penalizing the

victim of such violence who is also a tenant or lawful occupant, and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for termination of leases or assistance under the relevant program of HUD-assisted housing.

iv. Any drug-related criminal activity on or near the premises;

v. Other good cause. Other good cause may include, but is not limited to:

(1) Failure by the family to accept the offer of a new lease;
(2) Family history of disturbances of neighbors or destruction of property, or living or housekeeping habits resulting in damage to the property or unit;

(3) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit;
(4) A business or economic reason such as sale of the property, renovation of the unit, desire to rent at a higher rental amount.

b. During the first year the owner may not terminate tenancy for other good cause unless the reason is because of something the household did or failed to do.

c. The owner may only evict the tenant by instituting court action. The owner must give the Douglas Housing Authority a copy of any owner eviction notice to the tenant at the same time that the owner gives the notice to the tenant.

d. The owner may terminate the contract at the end of the initial lease term or any extension of the lease term without cause by providing notice to the family that the lease term will not be renewed.

B. Termination of the Contract

1. Automatic termination of the Contract

a. If the Douglas Housing Authority terminates assistance to the family, the contract terminates automatically.

b. If the family moves out of the unit, the contract terminates automatically.

c. The contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

2. Termination of the contract by the owner

The owner may only terminate tenancy in accordance with lease and State and local law.

3. Termination of the HAP contract by the Douglas Housing Authority

The Housing Authority may terminate the HAP contract because:

a. The Housing Authority has terminated assistance to the family.

b. The unit does not meet HQS space standards because of an increase in family size or change in family composition.

c. The unit is larger than appropriate for the family size or composition under the Program.

d. When the family breaks up and the Douglas Housing Authority determines that the family members who move from the unit will continue to receive the assistance.

e. The Douglas Housing Authority determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program.

f. The owner has breached the contract in any of the following ways:

i. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.

ii. If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937.

iii. If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.

iv. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement;

v. If the owner has engaged in drug trafficking.

4. Final HAP payment to owner

The HAP payment stops when the lease terminates. The owner may keep the payment for the month in which the family moves out. If the owner has begun eviction proceedings and the family continues to occupy the unit, the Housing Authority will continue to make payments until the owner obtains a judgment or the family moves out.

## 17.0 REPAYMENT POLICY

**Owner Debts to the PHA**
Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

**Family Debts to the PHA**
Any amount due to the PHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the assistance upon notification to the family and pursue other modes of collection.

**Repayment Agreement [24 CFR 792.103]**
The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

**Repayment Agreement Guidelines**

***Payment Thresholds***

- Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

***Execution of the Agreement***
The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

***Due Dates***
All payments are due by the close of business on the 15th day of the month. If the 15$^{th}$ does not fall on a business day, the due date is the close of business on the first business day after the 15th.

***Non-Payment***
If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the PHA will terminate assistance upon written notification to the family.

***No Offer of Repayment Agreement***
The PHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by

the family or owner exceed the Federal or State threshold for criminal prosecution.

## 18.0 RECORD KEEPING

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not release personal family information unless there is a business reason to do so. The family may authorize the PHA to release information to a third party by signing a "Release of Information" form.

Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

**Record Retention [24 CFR 982.158]**
During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.
- In addition, the PHA must 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 PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent
- (initially and during the term of a HAP contract); and
- Other records specified by HUD.

## 19.0 REPORTING REQUIREMENTS

The PHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

At least quarterly, the PHA must report an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

## 20.0 DETERMINATION OF INSUFFICIENT FUNDING

The HCV regulations allow PHAs 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 may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

**Methodology**

The PHA 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 the PHA's annual budget authority to the annual total HAP needs 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, the PHA 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 the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.

## 21.0 CHARGES AGAINST THE SECTION 8 ADMINISTRATIVE FEE RESERVE

Occasionally, it is necessary for the Douglas Housing Authority to spend money of its Section 8 Administrative Fee Reserve to meet unseen or extraordinary expenditures or for its other housing related purposes consistent with State law.

The Douglas Housing Authority Board of Commissioners, who are the Mayor and Council of the City of Douglas, Arizona, authorizes the Executive Director to expend without prior Board approval up to $10,000 for authorized expenditures.

Any item(s) exceeding $10,000 will require prior approval before any charge is made against the Section 8 Administrative Fee Reserve.

## 22.0 INTELLECTUAL PROPERTY RIGHTS

No program receipts may be used to indemnify contractors or subcontractors of the Douglas Housing Authority against costs associated with any judgment of infringement of intellectual property rights.

## 23.0 PROGRAM INTEGRITY

### A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the PHA undertake an inquiry or an audit of a participating family arbitrarily. The PHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, the community, and eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to the PHA' s attention, to investigate such claims.

The PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

**Referrals, Complaints, or Tips**
The PHA will follow up on referrals received by mail, by telephone, or in person from other agencies, companies or persons alleging that a family is in noncompliance with or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

**Internal File Review**
A follow-up will be made if PHA staff discovers (as a function of a certification or recertification, an interim re-determination, or a quality control review) information or facts that conflict with previous file data, the PHA's knowledge of the family, or statements made by the family.

**Verification of Documentation**
A follow-up will be made if the PHA receives independent verification or documentation that conflicts with representations in the family's file (such as public record information or reports from credit bureaus or other agencies).

## B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The PHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

The PHA will provide each applicant and participant with a copy of **"Is Fraud Worth It?" (form HUD-1141-OIG)**, which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA 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, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will place a warning statement about the penalties for fraud (as described in the 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

**Program Orientation Session**
Mandatory orientation sessions will be conducted by the PHA staff for all prospective program participants, 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 program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

**Owner Briefing Session**
The PHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

**Resident Counseling**
The PHA will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

**Review and Explanation of 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 program rules and to warn about penalties for fraud and abuse.

**Participant Certification**
All family representatives will be required to sign a participant certification form.

The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

## C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The PHA staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

**Quality Control File Reviews**
Prior to initial certification and at the completion of all subsequent recertifications, files will be reviewed in accordance with SEMAP regulations. At a minimum, such reviews shall examine:

*** Verification of all income and deductions**
*** Changes in reported Social Security numbers or dates of birth**
*** Authenticity of file documents**
*** Ratio between reported income and expenditures**
*** Consistency of signatures with previously signed file documents**
*** Dates and signatures on all documents**

**Observation**
The PHA management and occupancy staff (to include inspection personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

*** Observations will be documented in the family's file.**

**Public Record Bulletins**
These bulletins may be reviewed by management and staff.

**State Wage Data Record Keepers**
Inquiries to state wage and employment record- keeping agencies, as authorized under Public Law 100-628, the Stewart B. McKinley 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 participant) in the following circumstances:

*** At the time of final eligibility determination**

*** When an allegation is received by the PHA wherein unreported income sources are disclosed**

*** When a participant's expenditures exceed his/her reported income and no plausible explanation is given**

## D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The PHA staff will encourage all participating families to report suspected abuse to any PHA staff member. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints, and tips will be carefully evaluated to determine whether they warrant follow-up. The PHA will not follow up on allegations that are vague or otherwise nonspecific. They will only review allegations that contain one or more independently verifiable facts.

**File Review**
An internal file review will be conducted to determine whether the subject of the allegation is a client of the PHA and, if so, whether or not the information reported has been previously disclosed by the family.

The PHA will then determine whether it is the most appropriate authority to do a follow-up (as compared to police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

**Conclusion of Preliminary Review**
If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and that are independently verifiable, the PHA will initiate an investigation to determine if the allegation is true or false.

## E. OVERPAYMENTS TO OWNERS

If a landlord has been overpaid as a result of fraud, misrepresentation, or violation of the HAP contract, the PHA may terminate the contract and arrange for restitution to the PHA and/or family as appropriate.

The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the tenant, as applicable.

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the PHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

## F. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the executive director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, the PHA will secure the written authorization from the program participant for the release of information.

*** Credit Bureau Inquiries.** In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine whether the financial activity of a family conflicts with the family's reported income.

*** Verification of Credit.** In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor to determine the source of unreported income.

*** Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

*** Neighbors/Witnesses.** Neighbors and/or other witnesses who are believed to have direct or indirect knowledge of facts pertaining to the PHA's review may be interviewed.

*** Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.

*** Public Records.** The PHA will review any relevant public records kept in a jurisdictional courthouse. Examples of public records that may be checked are real estate records, marriage and divorce records, uniform commercial code financing statements, voter registration rolls, judgments, court or police records, state wage records, utility records, and postal records.

*** Interviews with Head of Household or Family Members.** The PHA will discuss the allegation (or details thereof) with the head of household or family

members by scheduling an appointment at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews.

## G. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY THE PHA

Documents and other evidence obtained by the PHA during the course of an investigation will be considered "work product" and will be kept either in the participant's file or in a separate "work file." In either case, the participant's file or work file will be kept in a locked file cabinet. Such cases under review will be discussed only among PHA staff who are involved in the process or have information that may assist in the investigation.

## H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the executive director or designee. It will then be determined whether the facts are inconclusive and, if so, whether a violation has or has not occurred.

## I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

- What type of violation has occurred (procedural noncompliance or fraud)
- Whether the violation was intentional or unintentional
- What amount of money (if any) is owed by the family
- Whether the family is eligible for continued occupancy

## J. ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

**1. Procedural Noncompliance.** This category applies when the family "fails to" observe a procedure or requirement of the PHA but does not misrepresent a material fact and there are no retroactive assistance payments owed by the family.

Examples of noncompliance violations are:

- Failure to appear at a prescheduled appointment

- Failure to return verification in the time period specified by the PHA

**Warning Notice to the Family.**

In such cases a notice containing the following will be sent to the family:

a) A description of the noncompliance and the procedure, policy, or obligation that was violated

b) The date by which the violation must be corrected or the procedure complied with

c) The action that will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA

d) The consequences of repeated (similar) violations

**2. Procedural Noncompliance - Overpaid Assistance.** When the family owes money to the PHA for failure to report changes in income or assets, the PHA will issue a notice of overpayment of assistance. This notice will contain the following:

- A description of the violation and the date(s)
- The amount owed to the PHA
- The number of days within which a response must be received
- Acknowledgment of the family's right to disagree and to request an informal hearing along with instructions for requesting such a hearing

(a) Participant Fails to Comply with PHA's Notice. If the Participant fails to comply with the PHA's notice and a family obligation has been violated, the PHA will initiate termination of assistance.

(b) Participant Complies with PHA's Notice. When a family complies with the PHA's notice, the staff person responsible will meet with him/her to explain and discuss the family obligation or program rule that was violated. The staff person will complete a participant counseling report, give one copy to the family, and retain a copy in the family's file.

**3. Intentional Misrepresentations.** When a participant falsifies, misstates, omits, or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the PHA, the PHA will evaluate whether or not:

The participant had knowledge that his/her actions were wrong

The participant willfully violated the family obligations or the law

**Knowledge.** This will be evaluated by determining whether the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, the briefing certificate, and the personal declaration are adequate to establish knowledge of wrongdoing.

**Willful Intent**. Any of the following circumstances will be considered adequate to demonstrate willful intent:

(a) An admission by the participant of the misrepresentation

(b) Repetition of the misrepresentation

(c) Use of a false name or Social Security number

(d) Admissions of the illegal action or omission by the participant to others

(e) Omission of material facts known to the participant (e.g., employment of the participant or other household member)

(f) Falsification, forgery or altering of documents

(g) Uttering and certifying to statements at an interim (re)determination that are later independently verified to be false

**4. Dispositions of Cases Involving Misrepresentations**. In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

(a) Criminal Prosecution. If the PHA has established criminal intent and the case meets the criteria for prosecution, the PHA will:

*** Refer the case to HUD's RIGI and terminate rental assistance.**

(b) Administrative Remedies. The PHA will:

*** Terminate assistance and execute an administrative repayment agreement in accordance with the PHA's repayment policy**

The PHA may decide to permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the PHA's repayment policy.

**5. The Case Conference for Serious Violations and Misrepresentations**

When the PHA has established that a material misrepresentation has occurred, a case conference will be scheduled with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the PHA. The purpose of such a conference is to review the information and evidence obtained by the PHA with the participant and to give the participant an opportunity to explain any document findings that conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the PHA. The family will be given [10] days to furnish any mitigating evidence.

A secondary purpose of the case conference is to assist the PHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the PHA will consider:

(a) The duration of the violation

(b) The number of false statements

(c) The family's ability to understand the rules

(d) The family's willingness to cooperate and to accept responsibility for the family's actions

(e) The amount of money involved

(f) The family's history

(g) The presence or absence of criminal intent

A. **Notification to Participant of Proposed Action.** The PHA will notify the family of the proposed action no later than **[10]** days after the case conference by certified mail.

## 24.0 QUALITY CONTROL OF SECTION 8 PROGRAM

In order to maintain the appropriate quality standards for the Section 8 program, the Douglas Housing Authority will annually review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program for our size housing authority.

## 25.0 NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)

The PHA will provide all applicants with notification of their protections and rights under the Violence Against Women Reauthorization Act of 2013 (VAWA) at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, and inform each applicant of PHA confidentiality requirements.

The PHA will also include in all notices of denial, a statement explaining the protection against denial provided by VAWA.

The PHA will inform property owners and managers of their screening and termination responsibilities related to VAWA. The PHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:

- As appropriate in day to day interactions with owners and managers.
- Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.
- Signs in the PHA lobby and/or mass mailings which include model VAWA certification forms.

# 26.0 CONDUCTING BUSINESS IN ACCORDANCE WITH CORE VALUES AND ETHICAL STANDARDS

## 26.1 PURPOSE

This Code of Conduct establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and specifically in this situation with the integrity of the employees and Commissioners of the Douglas Housing Authority, this Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employee or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

## 26.2 CONFLICT OF INTEREST

In accordance with 24 CFR 982.161, neither the Douglas Housing Authority 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 his or her tenure with the Douglas Housing Authority or for one year thereafter:

A. Any present or former member or officer of the Housing Authority (except a participant commissioner);

B. Any employee of the Housing Authority or any contractor, subcontractor or agent of the Housing Authority who formulates policy or who influences decisions with respect to the programs;

C. Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to the Douglas Housing Authority's programs; or

D. Any member of the Congress of the United States.
Any member of the classes described in A, B, C, or D, must disclose their interest or prospective interest to the Housing Authority and HUD.

The Conflict of Interest prohibition under this section (24.2) may be waived by the HUD Field Office upon the request of the Douglas Housing Authority for good cause.

## 26.3 PROHIBITION OF SOLICITATION OR ACCEPTANCE OF GIFTS

No Commissioner or Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive a gift having value in excess of $25.00 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority.

## 26.4 HOUSING AUTHORITY ADMINISTRATIVE AND DISCIPLINARY REMEDIES FOR VIOLATION OF THE HOUSING AUTHORITY CODE OF CONDUCT

Violations of this Code of Conduct Policy will result in disciplinary action as outlined in the City of Douglas Housing Authority's Personnel Policy or as determined by action of the Board of Commissioners.

## 27.0 PROCEDURES FOR DAILY PRACTICE ARE IN ACCORDANCE WITH INDUSTRY STANDARDS AND ARE MAINTAINED SEPARATELY.

## 28.0 REVISION OF ADMINISTRATIVE PLAN

(Revision of Administrative Plan Resulting From Changes in Local, State, or Federal Law or Regulation)

The provisions of this plan are based upon local, state and Federal law and regulation, and must be in accordance with HUD regulations and requirements.

The Administrative plan will be made available for public review. The Douglas Housing Authority must revise the administrative plan if needed to comply with HUD requirements. Should any applicable HUD regulation change, this plan will be deemed to be automatically revised, until such time as can be formally adopted by the appropriate officials.

Any revisions made to the Administrative Plan, will be formally adopted by the PHA Board of Commissioners (Mayor and Council of the City of Douglas, Arizona).

# GLOSSARY

**1937 Housing Act:** The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.)

**Absorption:** In portability, the point at which a receiving housing authority stops billing the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4]

**ACC Reserve Account (formerly "project reserve").** Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADA.** Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based.

**Administrative fee:** Fee paid by HUD to the housing authority for the administration of the program.

**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.

**Administrative Plan:**The plan that describes housing authority policies for the administration of the tenant-based programs.

**Admission:** The point when the family becomes a participant in the program. In a tenant-based 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).

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

**Affiliated Individual:** With respect to an individual (A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in "loco parentis" (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and child care expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

**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. If furniture was included in the purchase price, the debt service must be reduced by 15% to exclude the cost of the furniture. The amortization cost is the initial financing, not refinancing. Set-up charges may be included in the monthly amortization payment.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program.

**Annual Income:** All amounts, monetary or not, that:

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

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

c. Are not specifically excluded from Annual Income.

d. Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

**Applicant (applicant family):** A family that has applied for admission to a program but is not yet a participant in the program.

**Assets:**see net family assets.

**Asset Income:** Income received from assets held by household members. If assets total more than $5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income.

**Assisted lease (lease):** A written agreement between an owner and a family for the leasing of a dwelling unit to the family. 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 housing authority.

**Assisted Tenant:** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

**Assisted Unit:** A unit that is assisted under a Federal, State, or local government program.

**Budget Authority:** An amount authorized and appropriated by the Congress for payment to PHAs 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

**Certificate:** A document issued by a housing authority to a family selected for admission to the Certificate Program. The certificate describes the program and the procedures for housing authority approval of a unit selected by the family. The certificate also states the obligations of the family under the program.

**Certification:** The examination of a household's income, expenses, and family composition to determine the household's eligibility for program participation and to calculate the household's rent for the following 12 months.

**Child:** For purposes of citizenship regulations, 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 childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen:** A citizen or national of the United States.

**Co-Head:** An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

**Common space:** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Congregate housing:** Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

**Consent form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits.

**Contiguous MSA:** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial housing authority is located.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Voucher Program.

**Cooperative:** Housing owned by a non-profit 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.

**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.

**Dating Violence –** Violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**Decent, safe, and sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development.

**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 (such as urban renewal), 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.

**Displaced person:** A person displaced by governmental action (such as urban renewal), 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 any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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:** Illegal use or personal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use, of a controlled substance.

**Drug trafficking:** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**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 Household:** A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

**Elderly person:** A person who is at least 62 years of age.

**Eligibility Income.** May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

**Eligible Family**(Family): A family is defined by the PHA in the administrative Plan, which is approved by HUD.

**Exception rent:** An amount that exceeds the published fair market rent.

**Exceptional Medical or Other Expenses:** Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

**Excess Medical Expenses:** Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

**Evidence of citizenship or eligible status:** The documents that must be submitted to evidence citizenship or eligible immigration status.

**Extremely low-income families:** Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.*)*.

**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. FMRs are published periodically in the Federal Register.

**Family** includes but is not limited to**:**

a. A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
b. An elderly family;
c. A near-elderly family;
d. A disabled family;
e. A displaced family;
f. The remaining member of a tenant family; and
g. 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 members:** include all household members except live-in aides, foster children and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the HUD-50058.

**Family Rent to Owner:** In the voucher program, the portion of the rent to owner paid by the family.

**Family self-sufficiency program (FSS program):** The program established by a housing authority 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 or the gross rent minus the amount of the housing assistance payment.

**Family unit size:** The appropriate number of bedrooms for a family as determined by the housing authority under the housing authority's subsidy standards.

**50058 Form:** The HUD form that Housing Authority's are required to complete for each assisted household in public housing to record information used in the certification and re-certification process, and, at the option of the housing authority, for interim reexaminations.

**FMR/exception rent limit:** The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Voucher Program, the housing authority may adopt a payment standard up to the FMR/exception rent limit.

**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.

**Fraud:** 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.

**Full-time student:** A person who is attending school or vocational training on a full-time basis.

**Funding Increment:** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gross Family Contribution:** Changed to Total Tenant Payment.

**Gross rent:** The sum of the rent to the owner plus any utilities.

**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).

**Head of household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household members:** include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults.

**Housing Agency:** 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 And Community Development Act of 1974:** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was re-codified, and which added the Section 8 Programs.

**Housing Assistance Payment (HAP):** The monthly assistance by a housing authority, 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 Assistance Plan:** (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**Housing quality standards (HQS):** The HUD minimum quality standards for housing assisted under the Section 8 program.

**Housing voucher:** A document issued by a housing authority to a family selected for admission to the Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**Housing voucher holder:** A family that has an unexpired housing voucher.

**HUD:** The Department of Housing and Urban Development.

**HUD Requirements:** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

**Immediate Family Member:** with respect to a person (A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage.

**Imputed Asset:** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**Imputed income:** For households with net family assets of more than $5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

**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.

**Income:** Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

**Income category:** Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

**Income for Eligibility:** Annual Income.

**Incremental income:** The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases and decreases, are treated in the usual manner in determining annual income.

**Indian:** Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

**Indian Housing Authority (IHA):** A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

**Initial Housing Authority:** In portability, both: (1) a housing authority that originally selected a family that later decides to move out of the jurisdiction of the selecting housing authority; and (2) a housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

**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 initial lease term.

**Interim (examination):** A reexamination of a household's income, expenses, and household status conducted between the annual recertifications when a change in a household's circumstances warrant such a reexamination.

**Jurisdiction:** The area in which the housing authority has authority under State and local law to administer the program.

**Landlord:** This term means 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 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 housing authority.

**Lease Addendum:** For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

**Live-in aide:** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

a. Is determined to be essential to the care and well- being of the persons;
b. Is not obligated for the support of the persons; and
c. 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 families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family 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.

**Manufacture 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.

**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.

**Minor:** A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

**Mixed family:** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Moderate rehabilitation:** Rehabilitation involving a minimum expenditure of $1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

a. upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance; or
b. repair or replace major building systems or components in danger of failure.

**Monthly adjusted income:** One twelfth of adjusted income.

**Monthly income:** One twelfth of annual income.

**Mutual housing** is 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:**

a. 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.
b. 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.
c. In determining net family assets, housing authorities 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.

**Non-Citizen:** 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.

**Occupancy standards:** The standards that the housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Owner:** Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

**Participant (participant family]:** A family that has been admitted to the housing authority's 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 housing authority for the family (first day of initial lease).

**Payment standard:** In a voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a voucher tenancy, the housing authority sets a payment standard in the range from 90% to 110% of the current FMR.

**Person 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 an "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).

**Portability:** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial housing authority.

**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.

**Preservation:** This program encourages owners of eligible multifamily housing projects to preserve low-income housing affordability and availability while reducing the long-term cost of providing rental assistance. The program offers several approaches to restructuring the debt of properties developed with project-based Section 8 assistance whose HAP contracts are about to expire.

**Processing Entity:** The person or entity who is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs the processing entity is the responsibility entity.

**Program Abuse or Fraud:** 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.

**Proration of assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

**Public Housing:** Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency (PHA):** PHA includes any State, county, municipality or other governmental entity or public body, which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

> A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):
>
> Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or
>
> For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

**Reasonable rent:** A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Receiving Housing Authority:** In portability, a housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a voucher, and provides program assistance to the family.

**Re-certification:** A reexamination of a household's income, expenses, and family composition to determine the household's rent for the following 12 months.

**Regular Tenancy:** In the pre-merger certificate program: A tenancy other than an over-FMR tenancy.

**Remaining member of a tenant family:** A member of the family listed on the lease who continues to live in an assisted household after all other family members have left.

**Rent to owner:** The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Responsible Entity:**

A. For the public housing program, the Section 8 tenant-based assistance program 24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;

B. For all other Section 8 programs, responsible entity means the Section 8 project owner.

**Section 8:** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

**Security Deposit:** A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**Service Person:** A person in the active military or naval service (including the active reserve) of the United States.

**Set-up charges:** In a manufactured home space rental, charges payable by the family for assembly, 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.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single person:** Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of a tenant family.

**Single room occupancy housing (SRO):** A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special admission**: Admission of an applicant that is not on the housing authority waiting list, or without considering the applicant's waiting list position.

**Special housing types:** Special housing types include: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction:**

A. 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 wit 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.

B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;

2. 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

3. because a family member has not complied with other welfare agency requirements.

**Spouse:** The husband or wife of the head of the household.

**Stalking:** (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (B) 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 (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA):** The State 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.

**Statement of family responsibility:** An agreement in the form prescribed by HUD, between the housing authority and a Family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

**Subsidized Project:** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

A Public Housing Project.

**Subsidy standards:** Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension/Tolling:** Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. 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.

**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:** The amount payable monthly by the family as rent to the owner minus any utility allowance.

**Third-party (verification):** Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

**Tolling:** see suspension.

**Total tenant payment (TTP):**

(1) Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act. which is the higher of :

- 30% of the family's monthly adjusted income;
- 10% of the family's monthly income;

- Minimum rent; or

If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under Section 3(a)(1) shall be the amount resulting from one application of the percentage.

**Tuition:** Any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or 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 for a person over the age of 23 with dependent children.

**Unit:** Residential space for the private use of a family.

**Utilities:** Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

**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 housing authority 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 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.

**Utility reimbursement:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

**VAWA:** Violence Against Women Act

**Verification:**

a. The process of obtaining statements from individuals who can attest to the accuracy of the amounts of income, expenses, or household member status (e.g., employers, public assistance agency staff, doctors).
b. The three types of verification are:

(1) Third-party verification, either written or oral, obtained from employers, public assistance agencies, schools, etc.)

(2) Documentation, such as a copy of a birth certificate or bank statement

(3) Family certification or declaration (only used when third-party or documentation verification is not available)

**Very low-income families:** Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**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 (rental voucher):** A document issued by a housing authority to a family selected for admission to the Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family and states the obligations of the family under the program.

**Voucher holder:** A family holding a voucher with unexpired search time.

**Voucher Program:** The Housing Choice Voucher program.

**Waiting List:** A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

**Waiting list admission:** An admission from the housing authority waiting list. *[24 CFR 982.4]*

**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 Rent:** This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

**Welfare-To-Work (WTW) Families:** Families 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).

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# ACRONYMS

| | |
|---|---|
| AAF | Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment. |
| ACC | Annual Contributions Contract |
| BR | Bedroom |
| CACC | Consolidated Annual Contributions Contract |
| CDBG | Community Development Block Grant |
| CFR | Code of Federal Regulations |
| ELI | Extremely Low Income |
| FMR | Fair Market Rent |
| FSS | Family Self Sufficiency (program) |
| FY | Fiscal Year |
| FYE | Fiscal Year End |
| GFC | Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP). |
| GR | Gross Rent |
| HA | Housing Authority |
| HAP | Housing Assistance Payment |
| HCDA | Housing and Community Development Act |
| HQS | Housing Quality Standards |
| HUD | Department of Housing and Urban Development |
| INS | (U.S.) Immigration and Naturalization Service |
| NAHA | (Cranston-Gonzalez) National Affordable Housing Act |
| NOFA | Notice of Funding Availability |

| | |
|---|---|
| OMB | (U.S.) Office of Management and Budget |
| PBC | Project-Based Certificate (program) |
| PHA | Public Housing Authority |
| PS | Payment Standard |
| QC | Quality Control |
| QHWRA | Quality Housing and Work Responsibility Act of 1998 |
| RFAT | Request for Approval of Tenancy |
| SRO | Single Room Occupancy |
| TR | Tenant Rent |
| TTP | Total Tenant Payment |
| UA | Utility Allowance |
| URP | Utility Reimbursement Payment |
| VAWA | Violence Against Women Act |

# *ADDEMDUM 1*

## The Douglas Housing Authority VAWA Addendum

This addendum is submitted as required pursuant to Section 603 of the law amending Section 5A of the U.S. Housing Act to require PHAs five-year and annual PHA Plans to contain information regarding any goals, activities, objectives, policies, or programs of the PHA that are intended to support or assist victims of domestic violence, dating violence, sexual assault or stalking. Sections 606 and Section 607 amend the Section 8 and public housing sections of the U.S. Housing Act to protect certain victims of criminal domestic violence, dating violence, sexual assault or stalking as well as members of the victims and affiliated individuals from losing their HUD-assisted housing as a consequence of the abuse of which they were the victim.

The **Douglas Housing Authority (PHA)** has revised its Administrative Plan and grievance procedures to comply with and support the Violence Against Women Reauthorization Act of 2013 (VAWA) that President Obama signed into law on March 7, 2013. The **PHA** has established policies to support and assist victims of domestic violence and protect tenants and family members of tenants who are victims of domestic violence, dating violence, sexual assault or stalking from being evicted or terminated from housing assistance based on acts of such violence against them.

The Violence Against Women Act (VAWA) protects tenants and family members of tenants who are victims of domestic violence, dating violence, sexual assault or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. These provisions apply to our agency administering the Section 8 programs and to owners renting to families under Section 8 rental assistance programs.

The law provides in part that criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenants household or any guest or other person under the tenants control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of that abuse. The law also provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of that violence and will not be good cause for termination of the assistance, tenancy, or occupancy rights of a victim of such violence.

VAWA 2013 expands the protections regarding lease bifurcations (currently at 24 CFR 5.2009(a)) by:

- Changing the language regarding the violent acts ("criminal acts of physical violence against family members or others" becomes "criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual"), and

- Mandating that if such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the PHA shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish eligibility, the PHA is required to provide the tenant a reasonable time to find new housing or to establish eligibility under another covered housing program. HUD will provide through rulemaking or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or to establish eligibility under another HUD covered housing program. PHAs will not be able to implement this provision until HUD provides such rulemaking or guidance. HUD specifically solicits comment on that period that would be reasonable to find new housing or establish eligibility under another HUD covered housing program.

The PHA is utilizing the revised form HUD 52641 Housing Assistance Payments (HAP) Contract and revised form HUD 52641A Tenancy Addendum. These forms have been revised to reflect the statutory requirements of the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA 2005) that are related to housing choice voucher program HAP contracts and leases. Please note that although the 2011 HUD guidance covers protections under the Fair Housing Act and under VAWA 2005, it has not yet been updated to include the protections under VAWA 2013.

In addition, Douglas Housing Authority has implemented and is utilizing the form HUD 50066 Certification of Domestic Violence, Dating Violence, or Stalking for use in its Public Housing program and Housing Choice Voucher (HCV) program. PHAs, owners or managers responding to an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking that may affect a tenants participation in the housing program to request in writing that an individual complete, sign and submit, within 14 business days of the request, form HUD 50066 Certification of Domestic Violence, Dating Violence, or Stalking. On the form, the individual certifies that he/she is a victim of domestic violence, dating violence, sexual assault or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual shall provide the name of the perpetrator, only if the name of the perpetrator is safe to provide and is known to the victim. In lieu of a certification form, or in addition to the certification form, a tenant may provide to PHAs, managers or owners, (1) a Federal, State, tribal, territorial, or local police record or court record; (2) documentation signed and attested to by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of abuse, in which the professional attests under penalty of perjury to the professionals belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, sexual assault or stalking has signed or attested to the documentation, VAWA 2013 expands the forms of documentation that a victim may provide. Specifically VAWA 2013 provides that the forms of documentation a victim may provide …also include a record of an administrative agency, and documentation from a mental health professional.

DEFINITIONS: The following definitions were incorporated into the United States Housing Act and apply to this notice.

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 share a child in common, by a person who is cohabitated with or has cohabited 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 persons acts under the domestic or family violence laws of the jurisdiction.

Dating Violence: Violence committed by a person:
(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Immediate Family Member: a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.
(VAWA 2013 replaces the term "immediate family member" with "affiliated individual.")

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 (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

**Protections for Victims of Abuse in the Housing Choice Voucher Program.**

The new requirements of VAWA 2005 that are incorporated into the Housing Choice Voucher HAP Contract and Tenancy Addendum are as follows:

* An incident or incidents of actual or threatened domestic violence, dating violence or stalking will not be construed as serious or repeated violations of the lease or other good cause for termination of the assistance, tenancy, or occupancy rights of a victim of abuse. (Section 8(o)(7)(C) of the U.S. Housing Act of 1937.)

* Criminal activity directly relating to abuse, engaged in by a member of a tenants household or any guest or other person under the tenants control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenants family is the victim or threatened victim of that abuse. (Section 8(o)(7)(D)(i) of the U.S. Housing Act of 1937.)

* Notwithstanding the VAWA restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a PHA may terminate assistance to or an owner or manager may bifurcate a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or 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. This action may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the housing choice voucher program. (Section 8(o)(7)(D)(ii) of the U.S. Housing Act of 1937.)

* Nothing in Section 8(o)(7)(D)(i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up. (Section 8(o)(7)(D)(iii) of the U.S. Housing Act of 1937.)

* Nothing in Section 8(o)(7)(D)(i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenants household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate. (Section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937.)

Applicability of VAWA 2005 provisions to existing leases and Voucher HAP Contracts. The authority provided to PHAs, owners, and managers under VAWA 2005 to bifurcate a lease or otherwise remove an individual is applicable to all existing leases for families participating in either the public housing or section 8 programs (including the voucher program), and specific lease language to that effect is not necessary for the PHA, owner, or manager to exercise such authority. Also, the authority to bifurcate a lease or otherwise remove an individual under VAWA is not predicated on existing state or local law that allows for bifurcation. This Federal statutory authority to bifurcate a lease or otherwise remove an individual takes precedence over any Federal, State or local law to the contrary. However, PHAs, managers, and owners must keep in mind that the eviction of or the termination action against the individual must be effected in accordance with the applicable procedures prescribed by Federal, State, and local law.

* Nothing in Section 8(o)(7)(D)(i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant is not evicted or terminated from assistance. (Section 8(o)(7)(D)(v) of the U.S. Housing Act of 1937.)

* Nothing in Section 8(o)(7)(D)(i) shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than Section 8(o)(7)(D)(i) for victims of domestic violence, dating violence, or stalking. (Section 8(o)(7)(D)(vi) of the U.S. Housing Act of 1937.)

In accordance with the Final Rule on VAWA Reauthorization Act of 2013, Housing Authorities must be utilizing forms in the notice(s): form HUD-5382, VAWA Certification (this will replace HUD form 91066), as well as continue to use HUD form 91067 (VAWA Lease Addendum) until the form is updated. Form HUD 52641 Housing Assistance Payments Contract Section 8 Tenant-Based Assistance and form HUD 52641-A Tenancy Addendum Section 8 Tenant-Based Assistance Housing Choice Voucher Program.

The Final Rule on Implementation of the VAWA Reauthorization Act of 2013 was published in the Federal Register on November 16, 2016, with an effective date of December 16, 2016. In addition to this final rule, HUD has published a notice titled "Notice of Occupancy Rights under the Violence Against Women Act (Notice of Occupancy Rights) that certain housing providers must give to tenants and applicants to ensure they are aware of their rights under VAWA (HUD Form 5380).

In addition, the Final Rule provides for a six-month transition period for housing providers to complete an emergency transfer plan and provide emergency transfers, when requested, under the plan. Our agency will use the model emergency transfer request form to provide to tenants requesting an emergency transfer under the new regulations. Our agency will also use much of the criteria and processes outlined in the model emergency transfer plan published by HUD (HUD Form 5381) until our agency has an opportunity to draft and finalize an emergency transfer plan.

# *ADDEMDUM 2*

## HCV HOMEOWNERSHIP VOUCHER PROGRAM

The City of Douglas Public Housing Authority (CDPHA) hereby establishes a Section 8 tenant-based homeownership option in State of Arizona pursuant to the U.S. Department of Housing and Urban Development's (HUD) final rule dated October 12, 2000 and Section 555 of the Quality Housing and Work Responsibility Act of 1998 under Section 8(y), Homeownership Option, and revisions to the regulations. The Final Rule, effective October 12, 2000, allows public housing agencies (PHAs) the option of providing Housing Choice Voucher assistance to an eligible family that purchases, rather than rents, a dwelling unit that will be occupied by the family.

### *25.2 GENERAL DESCRIPTION OF CDPHA'S HOUSING CHOICE VOUCHER HOMEOWNERSHIP PROGRAM*

CDPHA is offering this homeownership program to CDPHA's eligible participants who are interested in purchasing their own homes. This program is offered in the spirit of providing multiple choices, in a continuum of care, to the low-income people who are current participants in CDPHA's Housing Choice Voucher Program rental assistance programs.

CDPHA's homeownership program is completely voluntary and provides participants freedom of choice. At no time will CDPHA directly or indirectly reduce a voucher family's opportunity to select among available units by limiting the use of homeownership vouchers to particular units, neighborhoods, developers or lenders.

Homeownership assistance offers families a new special housing option for families that receive Housing Choice Voucher Program tenant-based assistance. The CDPHA has chosen to offer the Section 8 Homeownership Program to its current participants who are interested in homeownership and meet the program requirements as specified in this plan.

The goal of the program is to expand homeownership opportunities to CDPHA's Housing Choice Voucher Program participants by assisting them in transitioning from rental to homeownership using the Housing Choice Voucher Program.

### PROGRAM SET-ASIDE

The number of Housing Choice Vouchers that will be made available for the homeownership program will initially be limited to 5 vouchers. Upon use of all 5 vouchers an additional set aside of 5 will be designated for homeownership based on availability.

**PARTICIPANT QUALIFICATION**
[24 CFR 982.626, 982.627]

Any Section 8 eligible program participant who has completed one year of satisfactory compliance with the HCV program and meets the additional eligibility requirements may use their Section 8 housing choice voucher assistance to purchase rather than rent a home, subject to the following:

1. Qualified participants may freely choose whether to continue with their rental assistance or request homeownership assistance. CDPHA's briefing packet contains information on the homeownership option that explains the program is voluntary and limited to families who are eligible under terms expressed in CDPHA's handbook.

2. If a family wishes to pursue the homeownership option, a family must:

   - Meet the general requirements for participation in the CDPHA's Housing Choice Voucher Program;
   - Have received CDPHA Housing Choice Voucher Program assistance for a minimum of one year (12 consecutive months); and
   - Be a participant in good standing (the family has not violated any Housing Choice Voucher Program regulations or policies, does not have a current re-payment agreement, has not had repeated lease violations or evictions for cause, etc.). The family must sign the statement of homeowner obligations and program guidelines, and must be able to comply with the additional special requirements for homeownership assistance as specified in the handbook and CDPHA's administrative plan. Preferences are given to those who work, are participating in CDPHA's Family Self-Sufficiency, and/or other education programs.

3. The family must qualify as a first-time homeowner as defined by the HCV HO regulations, or may be a cooperative member.
   - Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
   - By definition a first time homebuyer includes a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse). However, this requires the member to not have present homeownership interest in whole or in part in any residence.

   - By regulation, a disabled family shall not be a current homeowner. However, a member of the disabled family may have had a homeownership interest in a residence during the 3 years before commencement of homeownership assistance.

4. Once CDPHA has determined an applicant is eligible according to CDPHA/HUD requirements, CDPHA will provide the applicant with a Housing Choice Voucher Program homeownership certificate declaring the applicant's eligibility for this program. The certificate is not a guarantee that the applicant will be able to purchase a home, but merely specifies that the applicant can begin the home purchasing process. The Housing Choice Voucher Program homeownership certificate provides the real estate and lending professionals information that they need to assess the applicant's Housing Choice Voucher Program income qualifications. Other considerations such as the housing market, the applicant's credit history, current income, ability of the applicant to fulfill these requirements will determine ultimate results.

5. The certificate will estimate CDPHA's housing assistance payment made on behalf of the recipient, the unit size, and other pertinent information. The certificate must be presented to the approved program lenders who will assist the applicant in purchasing a home.

6. Income and Employment Requirements

Participants with Disabilities

HUD's final rule establishes a minimum income standard for persons with disabilities equal to the monthly Supplemental Security Income (SSI) benefit amount for an individual living alone times 12. In the case of an elderly or disabled family, CDPHA will count welfare assistance for the adult family members who will own the home in determining if the family meets the minimum income requirement.

There is no employment requirement for elderly or disabled families in the Section 8 Homeownership Program.

Non-disabled Participants

The final rule also sets a minimum income standard for non-disabled families, using the federal minimum wage times (or local minimum wage, if higher) 2,000 hours. Per the final rule, CDPHA will not count any welfare assistance received by non-disabled families for the purpose of establishing minimum income eligibility.

HUD's final rule establishes an employment history requirement for non-disabled families. The family must demonstrate that one or more adult family members who will own the home is currently employed a minimum of 30 hours per week and has been continuously so employed for the previous year. CDPHA has the discretion to determine whether and to what extent interruptions are considered to break continuity of employment during the year. Therefore, for the purposes of this aspect of the eligibility criteria, a non-disabled family will be considered to have met the employment history requirement if one or more adult family members who will own the home have worked a total of 1,250 hours in the previous year. This will allow for any type of interruption in work continuity of up to 250 hours in the previous year.

7. Minimum Cash Downpayment or Equity Requirements

Participants with Disabilities
CDPHA requires a minimum of a $750 borrower contribution toward down payment by participants with disabilities.

Non-disabled participants
CDPHA requires a minimum of $1,000 borrower contribution toward down payment by non-disabled participants.

CDPHA works closely with non-profit agencies advancing the cause of homeownership. These agencies have been successful in accessing funds for down payment, closing and other expenses. CDPHA anticipates that participants in the Housing Choice Voucher Homeownership Program may apply for additional funding from these resources.

Funding from Community Development Block Grants and other federal, state, or local funding is not prohibited.

8. Continuing rental assistance if the family does not find a suitable house to buy.

A family has 180 days from the time CDPHA issues a homeownership voucher to the family in which to find a home, secure financing, and close on the purchase. If the family hasn't closed within this time frame, the family may make a written request to CDPHA to extend the certification of eligibility for a new 180-day search period. If the family still hasn't closed within the extended time frame, the family may request re-certification of eligibility by submitting a new Application for Housing Choice Voucher Program Homeownership Assistance form to CDPHA. If family income or composition information changes during the certified search period, the service agency housing coordinator will provide CDPHA with updated HUD
Form 50058 information and verify this information for the agency's file.

9. Other Requirements

- The family has not previously defaulted on a mortgage secured debt to purchase a home under the HCV homeownership program.

- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

- CDPHA requires the participant to have no indebtedness to the CDPHA or any other PHA, nor be in a current repayment agreement with CDPHA or a PHA.

- The family has not committed any serious or repeated violations of a CDPHA-assisted lease within the past year.

- The family is in good standing with all terms of the family obligations and has been so for at least one year.

- Prior to the issuance of the Voucher, the participants must meet the eligible lending practices on credit requirements for the area.

- The participant will be required to provide adequate notice to the landlord at the time of transitioning from the rental unit that they are residing in to the homeownership unit that they will be acquiring.

- Participants in the HCV Homeownership Program must attend, satisfactorily complete, and receive written certification of the pre-purchase homeownership counseling program through CDPHA or other approvable housing counseling provider, and be deemed to be "mortgage ready" before a homeownership voucher will be issued. At a minimum, the counseling will cover the following:

    - Home maintenance
    - Budgeting and money management
    - Credit counseling
    - Negotiating the purchase price of a home
    - Financing
    - Locating the home
    - Sales Contract Provisions
    - De-concentration issues
    - Fair housing, predatory lending
    - Truth in lending, RESPA
    - Family must only purchase a home that passes HQS inspection and has been satisfactory according the independent inspection.
    - PHA option determinations

  The Counseling Certification is acceptable to CDPHA for a 1-year period from the date of graduation. If exceeding one-year then CDPHA will require the family to complete an acceptable refresher course.

**Screening and Determination of Readiness**

The pre-application will be reviewed by the CDPHA Family Self-sufficiency Coordinator for debt/asset ratio; minimum qualification status; employment status; escrow balances and HCV compliance status. If necessary, the FSS Coordinator or other staff member will schedule an appointment with the family to further determine their mortgage readiness.

**Issuance of Homeownership Voucher**
Upon successful completion of the homeownership counseling and recertification of eligibility and income, the family will be issued a HCV HO Voucher and referred to a participating financial institution to be pre-qualified for an affordable home. CDPHA will provide the financial institution with the family's estimated homebuyer subsidy for inclusion in the qualification determination.

The voucher will be valid for a total of 180 days from the date of issuance. The family must enter into a purchase agreement within the time period allotted, unless an extension is provided by CDPHA in writing.

## TIME FRAME TO PURCHASE A HOME
[24 CFR 982.626(B), CFR 982.629(A)]

An applicant will have a maximum of 180 days from the date of issuance of a homeownership voucher to find a home and enter into a Purchase Agreement.

If an applicant is unable to enter into a Purchase Agreement before the end of the initial 180-day period, the applicant will be provided an extension of 30 days to either enter into a Contract of Sale. Failure to complete the home purchase process does not disqualify the family from continued participation in the HCV rental program.

Any additional extension will be at the discretion of the CDPHA's HCV Director.

*A. Permitted Home Type and Ownership Arrangements*

The Homeownership Program may be utilized for the following types of housing:

1) A single-family unit owned by the family, where one or more adult family members hold title to the home, or a home previously occupied under a lease-purchase agreement. Such unit may be a single-family home, half of a duplex or single unit within a condominium or multi-plex.

2) A cooperative unit, where one or more adult family members hold membership shares in the cooperative.

3) A manufactured home on a permanent foundation in which the family owns the land in fee simple, or if the family does not own the land on which the home sits, the family has the right to occupy the land for at least forty years.

4) For units not yet under construction. Families may enter into contracts of sale for units not yet under construction at the time the family enters into the contract for sale. However, the PHA shall not commence homeownership assistance for the family for that unit, unless and until either:

(i) The responsible entity completed the environmental review procedures required by 24 CFR part 58, and HUD approved the environmental certification and request for release of funds prior to commencement of construction; or

(ii) HUD performed an environmental review under 24 CFR part 50 and notified the PHA in writing of environmental approval of the site prior to commencement of construction;

5) For CDPHA-owned or substantially controlled units all of the following conditions must be satisfied:

- CDPHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a CDPHA-owned unit is freely selected by the family without CDPHA pressure or steering;
- The unit is not an ineligible housing unit;
- CDPHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any CDPHA provided financing. All of these actions must be completed in accordance with program requirements. CDPHA will obtain the services of a neighboring PHA or the statewide HCV administering agency to perform these services, so long as the independent agency is operating a HCV Homeownership Program.

***CONTRACT OF SALE AND HOME INSPECTIONS***
*[24 CFR 982.631]*

Participants in the HCV Homeownership Program must initially complete a Purchase Agreement with the owner of the property to be purchased.

The Purchase Agreement must include the seller's certification that the seller(s) has not been debarred, suspended, or subject to a limited denial of participation under any federal contract in accordance with 24 CFR.

The Purchase Agreement must include the home's price and other terms of sale, the CDPHA pre-purchase HQS inspection requirements (including a provision that the participant will arrange for an independent pre-purchase inspection of the unit as set forth below), a provision that the participant is not obligated to purchase the unit unless the inspections are satisfactory to the purchaser and CDPHA, and an agreement that the purchaser is not obligated to pay for any necessary repairs. Buyer is not obligated for the purchase of the unit unless satisfactory financing can be secured and that is subject to approval by CDPHA.

The participant must obtain an independent professional home inspection of the unit's major systems at the participant's expense. A member of the American Society of Home Inspectors

(ASHI), a regular member of the National Association of Home Inspectors (NAHI), the State Association of Building Inspectors, or other recognized qualifying agent acceptable to both the lender and CDPHA must conduct the independent inspection. The inspector shall also be acceptable to the local lending institutions. In all cases the inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems. The unit must pass a termite or wood destroying organism report and any other requirements as determined by the State of Arizona. The inspectors must provide a copy of the inspection reports both to the family and to CDPHA.

CDPHA may not require the family to use an independent inspector selected by CDPHA. The independent inspector may not be a CDPHA employee or contractor, or other person under control of CDPHA. However, CDPHA has established standards for qualification of inspectors selected by families under the homeownership program.

CDPHA will conduct a Housing Quality Standards (HQS) inspection first, and if satisfactory, then require the independent inspection. CDPHA will then review the independent professional inspection report of the unit's major systems. CDPHA retains the right to disqualify the unit for inclusion in the Homeownership Program based on either the HQS inspection, the independent professional inspections report or termite.

The unit will also meet the housing standards requirement of the lenders that will contribute funds for the financing of the home.

***FINANCING***
*[24 CFR 982.632]*

CDPHA has established requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The CDPHA established policies describing these requirements are contained in the administrative plan.

CDPHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms. CDPHA will make payments in accordance with the lender requirements. Payments under the regulatory requirements can be made directly to the lender or the participant. Payments in excess of the PITI and PMI will be made to the family. Participants will be provided a list of lender's that have been briefed on the program and have made loans to HCV HO participants.

As a check against predatory lending, CDPHA will review the financing and refinancing of each purchase transaction, including estimated closing cost. CDPHA will not approve loans with features such as: balloon payments, interest only loans, adjustable rate mortgages (ARMs), and unusually high interest rates. CDPHA will not approve any loans that contain predatory practices. CDPHA will not approve "seller financing" or "owner held" mortgages.

Beyond these basic criteria, CDPHA will rely on the lenders or the secondary market to determine the affordability of the loan. However, CDPHA will also provide a determination on the affordable of the loan to program participants. CDPHA will not approve financing where the family would be obligated for a participant's share to exceed 45% of the participant's monthly adjusted income. Any exception to this provision must be approved by the Executive Director.

CDPHA will approve a family's request to utilize its Family Self Sufficiency escrow account for down payment and/or closing cost when purchasing a unit under the HCV homeownership program, per FSS program policies.

The household is solely responsible for obtaining financing. All loans must meet FHA, Fannie Mae, Freddie Mac, Ginnie Mae, USDA Rural Housing Services, Federal Home Loan Bank, reputable secondary markets, or acceptable mortgage insurance credit underwriting requirements, or governmental instruments. The first mortgage must provide for the escrow of taxes and insurance. CDPHA will review lender qualifications, loan terms, and other family debt and expenses to determine that the debt is affordable and reserves the right to disapprove the loan if it is unaffordable or the terms are considered predatory.

There is no prohibition against using local, state, Community Development Block Grant (CDBG), HOME or other subsidized financing in conjunction with the Homeownership program. CDPHA will review the layers and terms for satisfactory conditions, and retains the ability to approve or disapprove any and all financing terms.

In the event of an appeal to any local determination on financing, the decision of the HCV Director prevails.

## OWNERSHIP TITLE

The title of the unit to be purchased may be held jointly by one or more members of the assisted household or may be in a cooperative in which one or more members of the assisted household own shares. Town homes, condominiums, manufactured housing or other structure types are acceptable as long as a fee simple title can be transferred to the assisted family. Land leases are acceptable as long as they meet the HCV HO regulatory requirements.

## *LENGTH AND CONTINUATION OF 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; or
- 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; or
- 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 a different PHA, the total of such assistance terms is subject to the maximum term described in this part.

In order for a non-elderly/non-disabled family to continue to be assisted, they must continue to fulfill the employment requirement of an average of a minimum of 30 hours per week. In case of unemployment, an adult homeowner will re-secure employment within 90 days, unless a documented hardship exists. In the event of a documented hardship (i.e. layoff, company closure, death of a working adult, federal disaster, etc.), the head of household must provide on a monthly basis to the HCV Director, verification that they are attempting to pursue employment. The homeowner must show a plan to return to work in order to remain eligible for the program. CDPHA will assist the participant to secure employment through the client services programs and linkage to the JOBS Program. After six months on unemployment, the homeowner may be terminated from the Homeownership Voucher Program.

Participants are required to attend post-purchase and other forms of ongoing homeownership counseling.

CDPHA does not conduct routine HQS inspections on an annual basis. However, CDPHA also retains the right to conduct a HQS inspection at any time if there is a complaint on the condition of a unit that is being assisted, or CDPHA observes a unit that is not in compliance with HQS standards. CDPHA will require the family to participate in additional post-purchase counseling and further require the family to bring the unit to HQS standards within 30 days. Failure of the family to comply may result in termination of the assistance.

***FAMILY OBLIGATIONS***
*[24 CFR 982.633]*

In addition to completing the pre- and post-purchase homeownership counseling program, the family must execute a HUD Statement of Homeowner Obligations (HUD-52649 ) and CDPHA's Statement of Homeowner Obligations Addendum prior to the issuance of the homeownership voucher, agreeing to comply with all family obligations under the Homeownership Program, including but not limited to:

1) The family must comply with the terms of any mortgage securing debt incurred to purchase the home or any refinancing of such debt.

2) At any time the family is receiving homeownership assistance, the family may not sell or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.

3) A home equity loan or any refinancing may not be acquired without the prior written consent of CDPHA.

4) The family must provide required information regarding income and family composition in order to correctly calculate the total tenant payment (TTP) and homeownership assistance, consistent with the HCV requirements and any other information requested by CDPHA concerning financing, the transfer of any interest in the home, or the family's homeownership expenses.

5) While receiving homeownership assistance, the family must notify CDPHA if the family defaults on a mortgage securing any debt incurred to purchase the home.

6) While receiving homeownership assistance, the family must notify CDPHA before the family moves out of the home.

7) The family must, at annual reexamination, document that the family is current on mortgage, insurance, escrow accounts, repair reserve account, and utility payments.

8) The family is prohibited from moving more than one time in a one (1) year period. The family may be required to participate in pre- and post-purchase homeownership counseling prior to re-housing.

9) While receiving homeownership assistance, no family member may have any ownership interest in any other residential property.

10) Sign a release allowing CDPHA, counselors, realtors, and participating lenders to exchange information on the borrower.

11) Agree to maintain the condition of the home to comply with minimum HUD Housing Quality Standards (HQS).

12) Acknowledge that the termination of assistance shall be in accordance with program requirements and the Administrative Plan.

13) Acknowledge that the family is obligated for the whole mortgage payment in the event of termination of assistance.

14) Disclose any and all changes of family composition and family income immediately to CDPHA.

15) Agree that the family must immediately notify CDPHA of any late payment, delinquency notices, or default notices and must agree to participate in default counseling with a designated agency to become current.

16) Agree to attend any identified financial, homeowner or post purchase counseling during time of assistance.

17) Agree to the continued employment requirement as stated in CDPHA's Administrative Plan.

18) CDPHA requires the family to maintain a minimum reserve for maintenance and major repairs. The minimum reserve shall be equal to the monthly reserve amounts times the number of months assisted as a homeowner less any CDPHA approved withdraws.

19) Agrees that should they itemize deductions for IRS taxing purposes, they shall deduct in accordance with the IRS opinion that provides for a prorate deduction of the interest on a homeownership mortgage and homeownership taxes.

**ASSISTANCE PAYMENT**
[24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the Total Tenant Payment (TTP), or the monthly homeownership expenses minus the Total Tenant Payment (TTP).

In determining the amount of the homeownership assistance payment, the CDPHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

CDPHA may pay the homeownership assistance payments directly to the lender or at the lender's discretion, directly to a servicing agent or family. If the assistance payment exceeds the amount due to the lender, the CDPHA must 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. CDPHA will extend the period not to exceed an additional 180 calendar days for documented and verified hardships. Hardships shall include and not be limited to loss of employment due to no fault of the participant, death in the immediate family, natural disaster, etc.

The CDPHA must adopt policies for determining the amount of homeownership expenses to be allowed by CDPHA in accordance with HUD requirements.

CDPHA's housing assistance payment will be paid directly to the lender. If the assistance payment exceeds the amount due to the lender, CDPHA must pay the excess directly to the family. The family can also place these funds in an account that can be used for repairs or other homeownership expenses.

CDPHA requires the family to maintain a minimum reserve for maintenance and major repairs. The minimum reserve shall be equal to the monthly reserve amounts times the number of months assisted as a homeowner less any CDPHA approved withdraws.

CDPHA will allow the following homeownership expenses:
*Monthly homeownership payment*: This includes principal and interest on initial mortgage debt, taxes, and homeowner insurance, and any mortgage insurance premium, if applicable.

*Utility Allowance*: The CDPHA utility allowance for the unit, based on the current HCV utility allowance schedule.

*Monthly maintenance allowance*: The monthly maintenance allowance will be the annual maintenance allowance, divided by twelve. The maintenance allowance does not vary by bedroom size and are based upon an overall estimate as follows:

- $50 for all unit sizes

Monthly major repair/replacement allowance:

- $50 for all unit sizes

*Monthly co-op/condominium assessments or dues:* If applicable, the monthly amount of co-op or condominium association fees or operation and maintenance assessments.

*Monthly principal and interest on debt for handicap accessible improvements:* Principal and interest for major home repair, replacements, or improvements, if applicable.

Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].

In determining expenses for recertification, CDPHA will use the following homeownership expenses (not including cooperatives) to only include amounts allowed by the CDPHA to cover:

- Current principal and interest on the mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;

- Current real estate taxes and public assessments on the home;
- Current homeowner insurance;
- The current CDPHA allowance for maintenance expenses;
- The current CDPHA allowance for costs of major repairs and replacements;
- The current CDPHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the CDPHA 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;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the CDPHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The CDPHA allowance for maintenance expenses;
- The CDPHA allowance for costs of major repairs and replacements;
- The CDPHA utility allowance for the home; and
- 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 include debt incurred by the family to finance costs needed to make the home accessible for such person, if the CDPHA 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.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

**LEASE-TO-PURCHASE**

Lease-to-Purchase agreements are considered rental property and subject to the HCV tenant-based assistance rules. All regulations of the Homeownership Program will become effective at the time that the family exercises the option to use a homeownership voucher. "Present ownership interest" in a residence does not include the right to purchase title to the residence under the lease purchase agreement. CDPHA will participate in the lease/purchase program as designed by the local partners.

**PORTABILITY**

[24 CFR 982.636]

Subject to the restrictions on portability included in HUD regulations and CDPHA 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 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, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify 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.

**DEFAULT**

If the family defaults on the home mortgage loan, the participant will not be able to use the Homeownership Voucher for rental housing. However, the family may reapply to the CDPHA HCV rental assistance program, provided the application process is open. If the family has not defaulted, but has documented a hardship, CDPHA will review the hardship and based upon extenuating circumstances, may allow the family to return to the HCV Rental Program. In order to return to the rental program, the family will be required to dispose of the homeownership unit prior to receiving any rental assistance.

*B. Recapture*

[24 CFR 982.640]

**CDPHA will not recapture the Homeownership Voucher payments unless there was an act of fraud or misrepresentation of a material fact in order to obtain a benefit.** The HCV Homeownership recapture provision does not apply to any other program funds that may be used in the transaction.

**DENIAL OR TERMINATION OF ASSISTANCE**
[24 CFR 982.638]

At any time, CDPHA 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).

CDPHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633.

CDPHA must 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.

CDPHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations, as well as for any of the reasons listed in the Statement of Homeownership Obligations, CDPHA's Statement of Homeownership Obligations, or violations of the Housing Choice Voucher Homeownership Program.

In making its decision to terminate homeownership assistance, CDPHA will consider alternatives and other factors. Upon consideration of such alternatives and factors, CDPHA 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 the program regulations and Administrative Plan.

Informal Hearings
**[24 CFR 982.555]**

An informal hearing will be provided for participants who are being terminated from the Program because of the family's action or failure to act as provided in 24 CFR 982.552. The rules and procedures set forth in the Section 8 Administrative Plan, entitled "Informal Hearings," will apply.

## *ADDEMDUM 3*

# Family Self-Sufficiency Program
# Action Plan

**SECTION 8**
**FAMILY SELF-SUFFICIENCY PROGRAM**
**ACTION PLAN**

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## I. INTRODUCTION

The City of Douglas Public Housing Authority (PHA) administers the Housing Choice Voucher Program.

The goal of the City of Douglas's Family Self-Sufficiency Program (FSS) is to assist low and very low income families in becoming economically and socially self sufficient. The minimum FSS Program size will be determined by United States Department of Housing and Urban Development (HUD). A service plan and FSS contract will be developed and maintained for each qualified participating family member.

This revised and updated FSS Action Plan is hereby made a part of the Douglas Housing Administrative Plan. This Action Plan describes how Douglas Housing Authority will administer the FSS Program.

## II. FAMILY DEMOGRAPHICS

The required Family Self-Sufficiency Program size is 6 participants. The Quality Housing and Work Responsibility Act of 1998 allows the program size to decrease by one for each family that after October 1, 1999, fulfills their obligation under the FSS Contract of Participation. PHA will voluntarily increase the program size to 25 FSS participants. This will include the mandatory FSS program size and a voluntary FSS program. As the mandatory FSS program decreases the voluntary program size will increase. All FSS slots will be filled with current Section 8 Housing Choice Voucher participants who have volunteered for the program.

Following is a demographic profile of current Section 8 Housing Choice Voucher families. The Family Self-Sufficiency participants are predominately very low income, single, female head of household. Elderly, disabled, and handicapped populations are expected to be under-represented in the Family Self-Sufficiency Program, although participation will not be restricted on the basis of age or physical or mental ability.

| CITY OF DOUGLAS SECTION 8 TENANT PROFILE | |
|---|---|
| **Head of Household** | |
| Male | 26.0% |
| Female | 74.0% |
| Couple (male or female headed) | 11.0% |
| Elderly, Disabled, Handicapped | 47.0% |
| **Race/Ethnicity** | |
| White | 97.6% |
| Black or African American | 2.0% |
| American Indian and Alaska Native | 0.4% |
| Asian | 0.0% |

| | |
|---|---|
| Native Hawaiian and Other Pacific Islander | 0.0% |
| Two or More Races | 0.0% |
| Hispanic or Latino | 96.0% |
| White, Not Hispanic or Latino | 4.0% |
| **Income Limits** | |
| Very Low Income Household | 25.0% |
| Extremely Low Income Household | 69.0% |
| **Average Annual Adjusted Income** | |
| 0 Bedroom Families | $0.00 |
| 1 Bedroom Families | $7,746.76 |
| 2 Bedroom Families | $9,242.00 |
| 3 Bedroom Families | $11,710.31 |
| 4 Bedroom Families | $13,294.29 |
| 5 Bedroom Families | $25,812.00 |
| **Source of Income (Percentages equal more than 100% due to families having more than one source of income.)** | |
| Asset Income | 0.0% |
| Child Support | 2.4% |
| AFDC | 0.8% |
| Pension | 0.4% |
| SSI | 47.6% |
| Social Security | 44.8% |
| Unemployment | 0.4% |
| Other Wage | 21.6% |
| No Income | 0.8% |
| Non wage income | 16.0% |
| General Assistance | 8.0% |
| Own business | 0.0% |

## III. ESTIMATE OF PARTICIPATING FAMILIES

The City of Douglas's Family Self-Sufficiency Program will provide case management and supportive services to 25 participants in the Section 8 Housing Choice Voucher Program. An individual on the housing wait list will become eligible for the FSS Program once he/she has secured a lease under the Section 8 Housing Choice Voucher Program.

**Families are recruited to fill all FSS federally mandated slots. It is anticipated that 100% of the FSS participants will be recipients of various types of supportive services. The type of supportive services received will depend on the participant's individual goals and objectives listed in their service plan. The quantity and quality of supportive services received will depend on the resources available in the community and the availability of federal and private funding. The contract of participation each participant enters into is for a period of five (5) years.**

**PHA Policy**

An FSS participant may request an extension to the contract of participation for one or more of the following reasons:

- Participant goals have not been met at the end of the contract of participation
- Head of household became unemployed within 3 months of the end of contract participation, due to circumstances beyond the control of the participant
- Participant is not entitled to escrow funds for one or more reasons relating to contract
- Other *justifiable reason for wishing to extend contract of participation (determined on a case-by-case basis by Housing Manager and FSS Coordinator)

  *Justifiable reason shall NOT include a participant's desire to remain in the FSS program for the sole purpose of increasing their escrow balance, unless the increase in escrow is working towards a specific purpose in becoming self-sufficient. Specific purpose must be documented, and any additional escrow funds accrued during the extension period will only be released if/when that purpose has been met.

A request for an FSS Contract extension must be requested in writing; reason(s) for the request must be stated. Approval will be granted/denied by Housing Manager and FSS Coordinator by written response to the request within ten (10) business days of the date of the request. If a request is denied, reasons for the denial will be stated in the correspondence. The contract extension shall be for the period of one (1) year; a maximum of two (2) contract extensions will be allowed.

## IV. FSS FAMILY SELECTION PROCEDURES

### A. OUTREACH / RECRUITMENT

To recruit participants for the FSS Program, the PHA markets the program to all current Housing Choice Voucher Program participants. During the annual reexamination process, Section 8 Housing Choice Voucher participants are asked

if they are interested in learning more about the FSS Program. Their Section 8 Housing specialist has a supply of FSS Interest Forms to hand out to interested participants.

New Section 8 Housing Choice Voucher participants will receive FSS information in each briefing packet, and an FSS presentation will be made at all group-briefing meetings.

FSS brochures and interests forms in the reception area provide information on education, employment and homeownership opportunities, as well as information concerning community support systems.

Presentations to the City of Douglas caseworkers help them provide FSS information to Section 8 Housing Choice Voucher participants who receive their assistance.

## B SELECTION OF PARTICIPANTS

The PHA screens families for interest and motivation to participate in the FSS Program as follows:

1. Any Section 8 Housing Choice Voucher participant may complete an FSS Interest Form. Each Section 8 caseworker is provided with FSS brochures and interest forms and supplies a form to any tenant that shows an interest in FSS on their annual reexamination forms. There are FSS forms also available in the PHA reception area. All interest forms are date and time stamped when received by PHA.

2. All families who have submitted an FSS Interest Form, and meet all FSS eligibility requirements, will be required to attend a mandatory FSS briefing session. The FSS briefing session will explain the FSS Program in depth and will answer questions from the participants.

3. After the briefing session, those families interested in participating in the FSS Program must complete an FSS Request for Participation Form within fourteen (14) calendar days of the briefing session.

4. Families or individuals that complete an FSS Request for Participation Form will be required to meet with an FSS specialist to develop their Individual Training and Services Plan (ITSP) prior to signing an FSS Contract of Participation.

5. Should more individuals submit an FSS Request for Participation Form than slots are available; individuals will be placed on an FSS wait list in accordance

with the process outlined below. These procedures are intended to ensure that individuals are selected without regard to race, color, religion, sex, handicap, familial status, or national origin. Families on the FSS wait list will be brought into the FSS program according to:

- Date and time stamp of the returned Interest Form
- Attendance of mandatory FSS Briefing
- Date and time stamp of the returned Request for Participation Form
- If a family does not attend the mandatory briefing session, his/her name will be removed from the FSS Participant Wait List
- If an individual is removed from the FSS Wait List, he/she may resubmit an FSS Interest Form with a new date and time stamp.

6. Portable Family Self-Sufficiency participants, whose voucher is absorbed by PHA, will immediately be eligible for the FSS Program if there is an FSS slot available in Douglas's program.

7. Families owing debts to any housing authority may participate in the Family Self-Sufficiency Program; however, full payment of the debt will be an interim goal as part of their Individual Training and Services Plan. The debt must be paid in full as a requirement for completion of the FSS Program and the collection of the family's escrow account.

## V. FSS PROGRAM ELIGIBILITY

FSS program eligibility requirements include, but are not limited to, the following:

1. Participant must be currently participating in and in good standing with the Housing Choice Voucher Program
2. Participant must attend a mandatory FSS orientation session
3. Participant must have an overall goal to obtain self-sufficiency and be off public assistance as required by the FSS contract
4. Participant must be willing to seek and maintain employment during the FSS contract period
5. Participant must be willing to receive case management as part of his/her supportive services.
6. Participant must NOT have "successfully graduated" from the City of Douglas PHA or any other PHA FSS program and received FSS escrow funds. Re-application will be allowed for former FSS program participants who voluntarily ended their FSS participation and did not receive escrow funds, only if all other eligibility requirements are met.

## VI. INCENTIVES

The City of Douglas Family Self-Sufficiency Program will offer three primary incentives: individualized case management, the establishment of an escrow account, and for those who qualify, homeownership opportunities.

### *A. CASE MANAGEMENT*

The FSS specialist will provide client-centered services which are flexible in accounting for individual differences and responsive to changing needs. The level of assistance provided will vary based upon the individual's needs, capabilities, and available support systems. Through the completion of a General Information Form, Family Assessment Scale, and development of an Individual Training and Service Plan, the FSS specialist will assist the participant in identifying and mobilizing appropriate resources. The FSS specialist will provide continuous supportive services to include advocacy and monitoring of service effectiveness.

### *B. FSS ESCROW ACCOUNTS*

Each FSS participant will be provided the opportunity to escrow funds in accordance with 24 CFR 984.305. Douglas Housing Agency will deposit the FSS account funds of all participating families into a single account in a HUD approved investment. The balance applicable to each individual family will be supported by a ledger identifying escrow transactions by date and amount including interest accrued, and interim and final disbursements. Applicable credits will be made to each family's account at least annually. Each family will receive an annual report to minimally include: balance at the beginning of the reporting period, amount of escrow credited during the reporting period, any interim disbursements or deductions made from the account for amounts owed to the housing agency, the amount of interest accrued during the reporting period, and the final account balance.

When an FSS participant has completed his/her Contract of Participation as provided in 24 CFR 984.303 and certifies that no member of the household has been a welfare recipient for the past 12 months, the participant will successfully graduate from the FSS Program. Within 60 days, the Housing Agency will issue a check to the head of household for the escrow amount, minus any money owed to the Housing Agency by the family. Families will also graduate from the program whenever 30% of the family's monthly adjusted income equals or exceeds the existing housing Fair Market Rent (FMR) for the voucher size issued in Section 8 Housing Choice Voucher based on the PHA's occupancy standard and jurisdiction (even if the five years are not up).

A participant may request a disbursement of a portion of his or her escrow account during the contract period for contract-related expenses. The request must be submitted in writing with documentation showing that the purpose is goal related, will assist the participant in becoming self sufficient, and the participant has attempted to secure other resources. The housing manager and the FSS coordinator or FSS specialist will make a determination on a case-by-case basis for the early escrow release and the interim goals that must be completed prior to an early escrow release. Any interim disbursement will be deducted from the escrow balance.

**PHA Policy**

**A total of two (2) interim disbursements will be allowed during the FSS contract period. The amount of the disbursement request must not exceed 10% of the total escrow balance for the participant. Exceptions to the 10% maximum interim disbursement will be considered in emergency situations. Emergency situations may include, but not be limited to:**

- **Medical related expenses of participant or participant's household members**
- **Unforeseen expenses resulting from a death in the participant's family**
- **If and when failure to resolve a debt may result in incarceration, loss of employment or participation in educational/job training activities by some or all members of the participant's household**

**The Housing Manager and FSS Coordinator will make a determination on a case-by-case basis for what constitutes and emergency situation.**

FSS families will automatically forfeit their FSS escrow when any of the following conditions apply:

1. The family violates the Contract of Participation
2. The family voluntarily withdraws from the FSS Program
3. The family moves to a new Housing Authority's jurisdiction which does not have an FSS program
4. The family is removed from the Section 8 Housing Choice Voucher program for non-compliance of lease agreement of Section 8 policy and rule
5. The family continues to receive public assistance (welfare) at the end of the FSS contract term. (This does not include Medicaid, child care assistance, or housing subsidies.)

If the head of the FSS family ceases to reside with other family members in the Section 8 Housing Choice Voucher assisted unit, such as a result of divorce or death, the remaining members of the FSS family, in consultation with the Housing Agency, may

designate another family member as head of household. The newly designated head of the FSS family may collect any escrow funds accrued in accordance with provisions outlined above.

### *C. HOMEOWNERSHIP OPPORTUNITIES*

Family Self-Sufficiency participants who desire to purchase a home will have interim goals in their Individual Training and Service Plans that prepare them for homeownership. The City of Douglas plans to offer various assistance and programs to help residents become home owners.

1. *Down Payment Assistance* – The City of Douglas through CDBG and Home funds awards sub-recipients funds to administer the 1st Time Home Buyer Program. This program will provide HUD approved homeownership education and down payment assistance of up to $10,000 for first time homebuyers and low-income families.

2. *Homeownership Education* - The City of Douglas's FSS Program will partner with SEAGO to provide homeownership counseling and education on an ongoing basis. If a family wishes to purchase a home outside of the City of Douglas, they will be directed to a non-profit homeownership counseling group that is aware of the funding opportunities in that community.

3. *Home Ownership Choice Program* – Contingent on City Council approval, the City of Douglas will offer the Home Ownership Choice Program. This program will allow eligible participants in the Section 8 Housing Choice Voucher Program the option of purchasing a home with their Section 8 assistance rather than renting.

## VII. ACTIVITIES AND SUPPORTIVE SERVICES

The FSS specialist will provide supportive services necessary for participants to attain economic independence. The FSS specialist will maintain on-going personal and telephone contact with each participant to provide necessary emotional support, as well as assistance with problem solving, decision making, and barrier resolution.

The FSS specialist will remain knowledgeable of resources within the community and will assist participants in identifying and mobilizing needed services. The City of Douglas has developed partnerships with several local public and private entities in an effort to address family needs. Following is a list of anticipated service needs of FSS families and a sampling of collaborating agencies. Additional partnerships will be developed as needed to meet emerging needs.

## Family Self Sufficiency Partners

**Child Care Services**
Lomeli's Childcare Center
Saida Pillich Day Care
Arcoiri's Day Care Center
Coqui Childrens Center
AZDES Child Care Administration

**English as a Second Language, GED, Post-Secondary, Specific Job Training and Associate Degrees**
Cochise College

**Bachelor's Degree**
University of Arizona

**Job Retention Counseling, Soft Skills Training**
Cochise County Workforce

**Tax Preparation Assistance, Individual Development Accounts, Financial Literacy Counseling**
Catholic community Services

**Classroom Setting Financial Education**
SEAGO Housing Counseling Program

**Healthcare Services**
Cochise Regional Hospital
Copper Queen Medical Associates
Chiracahua Community Health Center
Douglas Family Health

**Mental Health, Substance Abuse, Life Skills Services**
Corazon Behavioral Health Services
Pinal Hispanic Council
Community Intervention Associates

**Homeownership Counseling**
SEAGO Homeownership Counseling
USDA Rural Development

**Emergency Assistance**
Salvation Army
St. Vincent De Paul

## VIII. IDENTIFICATION OF SUPPORT NEEDS

All families participating in the FSS Program will be interviewed by a case manager who will assess their individual needs. From the information gathered from the participant, the case manager and potential participant will develop an Individual Training and Service Plan (ITSP). The service plan will contain the participant's goals, objectives, and tasks which will enable him/her to accomplish the goal of becoming economically self sufficient. The ITSP will be reviewed by the participant and his or her case manager annually and may be adjusted to meet the participant's changing needs. The case manager and participant will determine the supportive services that are needed to accomplish the stated goals. The FSS participant has the ultimate responsibility of pursuing all community resources listed in their service plan.

## IX. PORTABILITY

The housing specialists will notify any FSS Section 8 family that requests portability that they must complete a Request for FSS Portability prior to their being approved for portability to another jurisdiction.

Portability for an FSS participant will be approved if all of the following apply:

- The family has resided in Douglas for at least 12 months from the effective date of their FSS Contract of Participation
- The family has met all their other family obligations under the Section 8 Housing Choice Voucher Program
- The family demonstrates to the satisfaction of the initial PHA, that notwithstanding the move, the relocating FSS family will be able to fulfill its responsibilities under the initial or modified contract of participation at its new place of residence in accordance with 24 CFR 984.306(c)(1)

**If the family wishes to go portable to another jurisdiction, but does not plan to continue in the FSS Program at the new jurisdiction, the family's FSS Contract of Participation will be terminated and the family will forfeit any funds in the escrow account.**

If the family requests portability to another jurisdiction's FSS program, the City of Douglas PHA cannot deny the FSS family participation on the FSS program **unless**:

- The receiving PHA does not administer a FSS program
- The receiving PHA does not allow the FSS family to participate in its FSS program
- The receiving PHA is unable to provide the supportive services for the family to meet its goals outlined in the ITSP

- The family is unable to demonstrate to the initial PHA that the FSS family will be able to fulfill its responsibilities under the initial or modified contract of participation at its new place of residence in accordance with 24 CFR 984.306(2)(c)(1)
- The FSS family has failed to amend or update the ITSP (ITSP is not current to reflect the goals for completion of the Contract of Participation) or actions outlined in 24 CFR 984.303(h).

24 CFR 984.306 (e) – Single FSS Account – states that "Regardless of whether the relocating FSS family remains in the FSS program of the initial or is enrolled in the FSS program of the receiving, there will be a single FSS account which will be maintained by the initial PHA. When an FSS family will be absorbed by the receiving PHA, the initial PHA will transfer the family's FSS account to the receiving PHA."

## X. FSS PROGRAM TERMINATION

The FSS family will be terminated from the FSS Program if the family does not fulfill the requirements of the Contract of Participation and/or violates the Section 8 Housing Choice Voucher Program regulations. FSS families will be thoroughly briefed prior to signing the Contract of Participation on the conditions under which the family will be terminated from the FSS Program.

Douglas Housing Authority may terminate participants from the FSS Program for the following reasons:

1. Mutual consent of both PHA and the family
2. Failure of the FSS family to meet its obligation under the Contract of Participation without good cause. This includes failure of the head of household to seek and maintain suitable employment during the contract period or failure of the household members to become independent of welfare assistance for a period of one year prior to the termination date of the FSS contract.
3. Termination or violation of the Section 8 Housing Choice Voucher Housing Program regulations.
4. Failure to comply with the FSS Contract of Participation due to relocation to a new HA jurisdiction.

Reapplication - Any family terminated from the FSS Program as provided above, will not be allowed to participate in the City of Douglas FSS Program for five years from the termination effective date.

## XI. GRIEVANCE PROCEDURE

The Grievance Procedure for FSS families will be the same as for non-FSS Section 8 Housing Choice Voucher participants described by the City of Douglas Section 8 Housing Choice Voucher Administrative Plan.

## XII. ASSURANCE OF NON-INTERFERENCE

Participation in the Family Self-Sufficiency Program is voluntary. The Douglas Housing Agency will assure that a family's election to not participate in the FSS Program will not affect the family's admission to the Section 8 Housing Choice Voucher program or the family's right to occupancy in accordance with their lease.

## XIII. TIMETABLE FOR IMPLEMENTATION

The City of Douglas Housing Agency's implementation of its FSS Program has met the requirements of CFR 984.301. Since October 25, 1993, Douglas has received HUD notifications for 6 mandatory units. PHA will increase the voluntary program size to 25.

## XIV. CERTIFICATION OF COORDINATION

The PHA, by approval of this plan, certifies that the development of the services and activities under the Family Self-Sufficiency Program will be coordinated with the relevant employment, child care, transportation, training and education programs available in its area of operation and that implementation of such services and activities will continue to be coordinated, not only to maximize their effectiveness but to avoid duplication of services and activities.

**CITY OF DOUGLAS**
**FAMILY SELF-SUFFICIENCY PROGRAM**
**(FSS)**

**INTEREST FORM**

I have read the FSS Program Brochure and am interest in learning more about the FSS Program. I understand that I will be required to attend an FSS orientation session.

Print Name: _____
Head of Household

Address: _____

_____

Telephone Number: _____

Message Number: _____

Signed: _____

Date: _____

**CITY OF DOUGLAS**
**FAMILY SELF-SUFFICIENCY PROGRAM**
**(FSS)**

**REQUEST FOR PARTICIPATION FORM**

I _____ have been briefed by the Douglas Housing Agency on the Family Self-Sufficiency Program, and I am interested in participating in it.

I understand that I must return this form prior to _____
or my name will be removed from the FSS Wait List.

Print Name: _____
Head of Household

Address: _____

_____

Telephone Number: _____

Message Number: _____

Signed: _____

Date: _____

**City of Douglas**
**FSS Portability Notice**

FSS Participant _____ Date:_____

FSS Contract: Effective Date: _____Expiration Date _____

FSS Escrow Balance: $_____ Effective Date _____

Initial FSS Caseworker: _____

Address: _____

CITY/STATE/ZIP _____

PHONE _____ FAX _____

**I authorize the Douglas Housing Authority's Family Self-Sufficiency Program to release information to the receiving Housing Authority. I understand that my FSS Contract of Participation, the Individual Training and Services Plan and the escrow amount will be forwarded to the receiving FSS Program if I am absorbed into their program.**

FSS Participant Signature_____ Date_____

The above referenced family is currently enrolled in the Family Self-Sufficiency Program through Douglas Housing Authority. This family has lived in our jurisdiction for at least 12 months from the effective date of the Contract of Participation and has complied with the family obligations under the Section 8 Housing Choice Voucher rental certificate or rental voucher program. The family is requesting to transfer their contract and Individual Training and Services Plan to your FSS Program.

---

I, _____ , am requesting to participate in the FSS Program in the following location:

**RECEIVING** FSS Program

Name of Receiving FSS Coordinator: _____

FSS Program (Housing Authority) _____

Address: _____

**CITY/STATE/ZIP** _____

Phone: _____ FAX _____

**Part II** **PHA use only**: Please complete this form and return a copy to the Douglas Housing Authority (Fax 520 417-7158. Address: 425 E. 10st Street, Douglas, AZ 85607)

____ The above referenced family has failed to submit a request for participation in our FSS Program.

____ The above referenced family will not be absorbed into our FSS Program.

____ The above referenced family has been absorbed into our FSS Program. We are requesting a copy of the FSS Contract of Participation, the ITSP, and the escrow funds

_____ _____

FSS Coordinator Signature Date

| Notes: |
| --- |
| |

## *ADDEMDUM 4*

# EIV PROCEDURES – MAINTAINED SEPARATELY

# *ADDENDUM #5*

# FAMILY UNIFICATION PROGRAM

The City of Douglas PHA will take the following steps in order to affirmatively further Fair Housing for the classes protected under the Fair Housing Act in regards to vouchers awarded under the Family Unification Program (FUP). Protected classes include race, color, national origin, religion, sex, disability, and familial status. Reasonable steps will include, but are not limited to:

a. Identify and ensure certification of FUP eligible families and youth that may be on the PHA's waiting list and ensure that the family or youth maintain their original position on the waiting list after certification.

c. The PHA will appropriately place all FUP eligible families and youth referred from the Arizona Department of Economic Security/Division of Children, Youth and Families (AZDES/DCYF) on the HCV waiting list in order of first come, first served.

d. The PHA will inform applicants on how to file a fair housing complaint including the provision of the toll free number for the Housing Discrimination Hotline: 1-800-669-9777 and the Federal Information Relay Service at (800) 887-8339.

In addition, the PHA will comply with the affirmatively furthering fair housing requirements of 24 CFR Section 903.7(o) by:

1) Examining its programs or proposed programs;
2) Identify impediments to fair housing choice within those programs;
3) Address those impediments in a reasonable fashion in view of resources available;
4) Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and
5) Maintain records reflecting these analyses and actions.

In addressing problems for persons with disabilities, the PHA will:

1) Where requested by an individual, assist program applicants and participants gain access to supportive services available within the community, but not require eligible applicants or participants to accept supportive services as a condition of continued participation in the program;

2) Identify public and private funding sources to assist participants with disabilities in covering the costs of structural alterations and other accessibility features that are needed as accommodations for their disabilities;

3) Not deny persons who qualify for HCV under this program other housing opportunities, or otherwise restrict access to PHA programs to eligible applicants who choose not to participate;

4) Provide housing search assistance;

5) In accordance with rent reasonableness requirements, approve higher rents to owners that provide accessible units with structural modifications for persons with disabilities; and

6) Provide technical assistance, through referrals to local fair housing and equal opportunity offices, to owners interested in making reasonable accommodations or units accessible to persons with disabilities.