

The Providence Housing Authority

Section 8 Administrative Plan



Updated 12.10.2020



Admin Plan Section 1

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in the Fair Housing and Equal Opportunity Chapter of this plan.

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

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

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

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

PART I: THE APPLICATION PROCESS

1-I.A. OVERVIEW

This part describes the PHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

1-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application.

PHA Policy

When the waiting list is open, applications for rental assistance must be completed in the method specified on the PHA notice. Usually the application will be made available online; however, a paper application may be made available to disabled individuals as a reasonable accommodation request. The PHA may accept applications online independently or in collaboration with other partner(s).

The PHA has elected to participate in Rhode Island's statewide Housing Choice Voucher Centralized Wait List ("CWL") system. This does not apply to waiting lists for the Project Based Voucher program, which are addressed in the Project Based Voucher chapter of the Admin Plan.

The centralized wait list portal represents a single point of entry for applicants wishing to apply for assistance from one or more CWL participating housing authorities, and will be centrally administered by (the "CWL administrator"). In recent years, the Department of Housing and Urban Development has encouraged the use of a centralized wait list system.

Applicants must apply online at the centralized wait list portal, accessible via the secure website www.waitlist-centralri.com. Applicants can complete this process using any internet-enabled device. The PHA will modify this requirement as needed for applicants who request a reasonable accommodation or are Limited English Proficiency (LEP) individuals, following the procedures outlined in our Reasonable Accommodations and LEP policy.

The PHA will utilize a two-step application process. Initially, the PHA will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Applications must be complete in order to be accepted by the PHA for processing. If an

application is incomplete, the CWL administrator will reject the application and notify the family at the email address provided at the time of application. The date and time used for the application will be the date and time a complete application is received. The PHA will only accept one application per household.

1-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

The PHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Please see our Fair Housing, and Equal Opportunity Chapter which provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

PHAs are required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Please see our Fair Housing and Equal Opportunity Chapter which provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

1-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

PHA Policy

Based on all applicable program regulations and PHA policies currently in effect, the CWL administrator will make an initial eligibility determination. If the CWL administrator can determine from the information provided that a family is ineligible, the family will not be placed on the PHA's waiting list. Where a family is determined to be ineligible, the CWL administrator will send email notification of the ineligibility determination to the email address provided at the time of application. The notification will specify the reasons for ineligibility, and will inform the family of its right to request an informal review from the PHA and explain the process for doing so.

Eligible for Placement on the Waiting List

PHA Policy

The CWL Administrator will send written notification of the preliminary eligibility determination upon review of the completed application to the email address provided at the time of application.

All New Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received.

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

Applicants that submitted applications during the November 2016 waitlist opening will be placed before any new applicant(s) on the waiting list based on their preference and lottery ranking, except for non-elderly disabled vouchers where new applicants who qualify for preferences for those vouchers may be placed before November 2016 waitlist participants for those vouchers only.

PART II: MANAGING THE WAITING LIST

1-II.A. OVERVIEW

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

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

1-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

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

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

PHA Policy

The PHA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

PHA Policy

The PHA will not merge the HCV waiting list with the waiting list for any other program the PHA operates.

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

Closing the Waiting List

A PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

PHA Policy

During the PHA's participation in the Centralized Waiting List, the Centralized Wait List portal will remain open indefinitely after its initial launch date. The CWL administrator may temporarily suspend the taking of applications in the event of extenuating circumstances, including but not limited to system maintenance.

Should the PHA no longer continue participating in the Centralized Wait List, the PHA may decide to close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where the PHA has particular preferences or funding criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others. The suspension of applications will be announced on the PHA's website.

Reopening the Waiting List

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

PHA Policy

The Centralized Wait List portal will remain open indefinitely and is not anticipated to close (other than for administrative maintenance) and reopen.

The PHA will announce the reopening of the waiting list at least 10 days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The re-opening of the waiting list will be announced by Public Notice on the PHA website, a notice in local newspapers of general circulation, minority media, and other suitable media outlets.

1-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

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

Because HUD requires the PHA to admit a specified percentage of extremely low-income families to the program, the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

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

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

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

PHA Policy

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

1-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

PHA Policy

While the family is on the waiting list, the family must immediately inform the PHA and the CWL administrator of changes in contact information, including changes in email address, current residence, mailing address, and phone number. The changes must be submitted via the CWL online portal, within 10 days of the change or via the method specified on the PHA's website if the PHA is no longer participating in the CWL.

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

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

Purging the Waiting List

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

PHA Policy

On an annual basis, or more often if needed, the CWL Administrator will update the centralized applicant pool on behalf of the participating housing authorities to ensure that all applicant information is current and accurate.

To accomplish this, the CWL administrator will send an update request to each family on the waiting list to determine whether the family continues to be interested in, and continues to qualify for, the program. This update request will be sent to the last email address that the CWL administrator 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.

If the family fails to respond within 10 business days, the CWL administrator will send a second email notice and a letter to the last mailing address of record.

The family's response must be in writing and may be delivered in person, by mail, email, or by fax. Responses must be received (or in the case of a mailed response, postmarked) by the CWL administrator not later than 10 business days from the date of the letter.

If the family fails to respond to the second contact attempt, the family will be removed from all applicable PHA waiting lists without further notice.

If the mailed notice is returned by the post office and no other response is received within 10 business days, the applicant will be removed from all applicable PHA waiting lists without further notice.

If a family is removed from the waiting list for failure to respond, only the Executive Director, (or their designee) of the Providence Housing Authority may reinstate the family if he or she determines that the lack of response was due to error by the CWL

administrator or the PHA, or if reinstatement would reasonably accommodate an applicant with a disability.

Removal from the Waiting List

PHA Policy

If at any time an applicant family is on the waiting list, the PHA determines that the family is not eligible for assistance; the family will be removed from all applicable PHA waiting lists. However, the family's position on any other Housing Choice Voucher waiting lists of CWL participating housing authorities will not be affected.

If a family is removed from the waiting list(s) because the family has been determined ineligible for assistance by the PHA, a notice will be sent to the family's email or postal address of record. The notice will state the reasons the family was removed from the waiting list(s) and will inform the family how to request an informal review regarding the PHA's decision [24 CFR 982.201(f)].

When a family is housed by a participating agency (i.e., has entered into a lease and HAP contract with the landlord and the participating agency), the CWL administrator will remove the family from all other participating agency Housing Choice voucher waiting lists. The CWL administrator will run periodic reports to check this status. If the family later ends participation in the program, they may reapply via the Centralized Wait List portal.

PART III: SELECTION FOR HCV ASSISTANCE

1-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

1-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

PHA Policy

The PHA administers the following types of targeted funding:

VASH vouchers

Non-Elderly Disabled Vouchers

Regular HCV Funding

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

1-III.C. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

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

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

PHA Policy

The PHA will use the following local preferences for all the general Housing Choice Voucher Program applicants. These preferences will not be given to Non-Elderly Disabled applicants, Project Based Voucher applicants or any other applicants unless specified in this administrative plan:

- A victim of an act(s) of domestic violence, dating violence, sexual assault, or stalking (two points)
 - For Victims of Domestic Violence, dating violence or stalking the incident must have occurred within the previous four (4) Months of the date the tenant is selected from the waiting list. – Verification of a claimed incident(s) of actual or threatened domestic violence, dating violence or stalking must be provided in one of the following three ways:
 - Approved Certification (Form HUD 50066) with supporting documentation.
 - A certification by the victims' domestic violence service provider, attorney or a medical professional from whom the victim has sought assistance in addressing the domestic violence. In which the professional attests under penalty of perjury that the incidents in question are bona fide incidents of abuse.
 - Police or Court Record and the PHA's VAWA Certification Form.
 - The letter/form must identify when the actual or threatened physical violence against the applicant last occurred. The family must certify that the abuser will not ever be part of the household.
- An applicant who is living, working, or is hired to work in the state of Rhode Island (one point).
 - A Rhode Island Resident is a resident of Rhode Island or a person working in Rhode Island. In order to verify that an applicant is a resident, the PHA will require a minimum of two (2) of the following documents: rent receipts and lease, utility bills, employer or agency records (i.e. Paystubs), school records indicating the address on file, driver's license, voter registration record, or credit report.

- Prior to processing the application, the PHA may require a second certification from the same or a similar source that the applicant still qualifies under this preference.

The PHA will use the following “Non-Elderly Disabled targeted funding” preference(s) for applicants of the Housing Choice Voucher Program that qualify for a Non-Elderly Disabled voucher. The preference points may not be combined with the VAWA and the Rhode Island Resident preference, and cannot be combined with any other preference unless otherwise stated. The following targeted funding preference(s) will be capped at the current Non-Elderly Disabled program size. This means the maximum number of preferences that will be made available at any point in time will not exceed the number of vouchers available for issuance under this specific targeted funding group.

- Non-elderly persons with disabilities who are transitioning out of institutional or other segregated settings, at serious risk of institutionalization, homeless, or at risk of becoming homeless, or who are formerly homeless and participating in a rapid rehousing or permanent supportive housing project.
- The PHA may limit the allocation of its homeless, at risk of homeless, and formerly homeless preference based on the Housing Authority’s determination of local housing need.
- The PHA may limit the allocation of its institutionalization/segregated setting based on the Housing Authority’s determination of local need.
 - “Homeless” means:
 - **A Non-elderly person with disabilities over the age of 18 who lacks a fixed, regular, and adequate nighttime residence, meaning: (Two Points)**
 - An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
 - An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
 - In order to confirm that individuals/families qualify under this definition, the applicant must be referred by the Continuum of Care’s (CoC) Coordinated Entry System. Written authorization and a certification from the CoC’s authorized representative must be provided verifying the homeless status of the family/individual

with Rhode Island's Homeless Management Information System (HMIS).

- **A Non-elderly person with disabilities over the age of 18 who previously experienced homelessness and is currently a client in a permanent supportive housing or rapid rehousing project and is deemed likely by the RI Continuum of Care to successfully maintain housing if they transfer to the Mainstream Voucher program: (Two Points)**

 - In order to confirm that individuals/families qualify under this definition, the applicant must be referred by the Continuum of Care's (CoC) Coordinated Entry System. Written authorization and a certification from the CoC's authorized representative must be provided verifying the homeless status of the family/individual with Rhode Island's Homeless Management Information System (HMIS).

- **A Non-elderly person with disabilities over the age of 18 who will imminently lose their primary nighttime residence provided that: (One Point)**

 - The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - No subsequent residence has been identified; and
 - The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
 - In order to confirm that individuals/families qualify under this definition, the applicant must be referred by the Continuum of Care's (CoC) Coordinated Entry System. Written authorization and a certification from the CoC's authorized representative must be provided verifying the homeless status of the family/individual with Rhode Island's Homeless Management Information System (HMIS). The applicant must also provide verification of the court ordered eviction order.

- **A Non-elderly person with disabilities over the age of 18 that is also unaccompanied youth under 25 years of age, or families with at least one person that is a Non-elderly persons with disabilities over the age of 18, with children and youth, who do not otherwise qualify as homeless under this definition, but who: (One Point)**

 - Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the

Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a); and

- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance; and
 - Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;
 - In order to confirm that individuals/families qualify under this definition, the applicant must be referred by the Continuum of Care's (CoC) Coordinated Entry System. Written authorization and a certification from the CoC's authorized representative must be provided verifying the homeless status of the family/individual with Rhode Island's Homeless Management Information System (HMIS).
- **A Non-elderly person with disabilities over the age of 18 whose family is (One Point):**
 - Fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; and
 - Has no other residence; and
 - Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.
 - In order to confirm that individuals/families qualify under this definition, the applicant must be referred by the Continuum of Care's (CoC) Coordinated Entry System. Written authorization and a certification from the CoC's authorized representative must be provided verifying the homeless status of the family/individual

with Rhode Island’s Homeless Management Information System (HMIS).

- The applicant must also provide verification of a claimed incident(s) of actual or threatened domestic violence, dating violence or stalking in one of the following three ways:
 - Approved Certification (Form HUD 50066) with supporting documentation.
 - A certification by the victims’ domestic violence service provider, attorney or a medical professional from whom the victim has sought assistance in addressing the domestic violence, in which the professional attests under penalty of perjury that the incidents in question are bona fide incidents of abuse.
 - Police or Court Record and the PHA's VAWA Certification Form. The letter/form must identify when the actual or threatened physical violence against the applicant last occurred. The family must certify that the abuser will never be part of the household.

- “At risk of becoming homeless” means:
 - **A Non-elderly person with disabilities over the age of 18 who is at risk of becoming homeless because they (One Point):**
 - Do not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and meets the following conditions:
 - Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance; and
 - Is living in the home of another person because of economic hardship; and
 - Has been notified via court order that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance; or
 - Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals; or
 - Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons,
 - Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution);

- In order to confirm that individuals/families qualify under this definition, the applicant must be referred by the Continuum of Care's (CoC) Coordinated Entry System. Written authorization and a certification from the CoC's authorized representative must be provided verifying the near homeless status of the family/individual within Rhode Island's Homeless Management Information System (HMIS).
 - Prior to processing the application, the PHA may require a second certification from the same or a similar source that the applicant still qualifies under this preference.
- “Transitioning out of institutional or other restricted settings” means:
- **A Non-Elderly person with a disability who is transitioning out of an Institutional or other segregated settings (One Point):**
 - Which include, but are not limited to:
 - Congregate settings populated exclusively or primarily with individuals with disabilities;
 - Congregate settings is characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or
 - Settings that provide for daytime activities primarily with other individuals with disabilities.
 - The person transitioning must be referred to the PHA by a partner agency or other approved state office that has a service agreement with the PHA. The agency making the referral must provide a certification that the applicant qualifies under this definition and that care coordinating services will be given to the individual in order for them to successfully participate in the Housing Choice Voucher program
 - Prior to processing the application, the PHA may require a second certification from the same or a similar source that the applicant still qualifies under this preference.
- “At risk of institutionalization” means:
- **A Non-Elderly person with a disability which is at serious risk of institutionalization (One Point):**
 - Which is defined as an individual with a disability who as a result of a public entity's failure to provide community services or its cut to such services will likely cause a decline in health, safety, or welfare that would lead to the individual's eventual placement in an institution.
 - This includes individuals experiencing lack of access to supportive services for independent living, long waiting

lists for or lack of access to housing combined with community based services, individuals currently living under poor housing conditions or homeless with barriers to geographic mobility, and/or currently living alone but requiring supportive services for independent living.

- A person cannot be considered at serious risk of institutionalization unless the person has a disability.
- An individual may be designated as at serious risk of institutionalization either by a health and human services agency or by a community-based organization that specializes in providing such services.
- For the intent of this preference correctional facilities shall not be considered an institutional setting.
- The person at risk of transitioning must be referred to the PHA by a partner agency or other approved state office that has a service agreement with the PHA. The agency making the referral must provide a certification that the applicant qualifies under this definition and that care coordinating services will be given to the individual in order for them to successfully participate in the Housing Choice Voucher program.
- Prior to awarding the preference, the PHA may require a second certification from the same or a similar source that the applicant still qualifies under this preference.

Preference points will be aggregated, with the exception of preferences related to the Non-elderly disabled vouchers – which shall not be considered for other Housing Choice Vouchers. Only one preference may be applied to an applicant being considered for Non-Elderly Disabled vouchers, and it may only be one of the specific Non-Elderly Disabled preferences. An applicant may request a preference at the time of application as well as any time his/her circumstances has changed while on the waiting list. Before issuance of a voucher, the PHA will verify that the family qualifies for all of the preferences based on the family’s current circumstances.

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

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

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

PHA Policy

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

Order of Selection

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

PHA Policy

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA's hierarchy of preferences, if applicable.

Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the 1. Original ranking (for any applicants that submitted applications during the 2016 waiting list opening) and 2. date and time their complete application is received by the PHA (for all other applicants).

With the exception of applicants that qualify for the non-elderly disabled preferences (for those vouchers only), the PHA will ensure that all 2016 waitlist applicants for each preference category are selected prior to any new applicants that may qualified for the preference category.

Documentation may be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

1-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family [24 CFR 982.554(a)].

PHA Policy

The PHA will notify the family of their selection and schedule an interview using the email address currently on record, except in cases where the applicant has requested a reasonable accommodation related to communication method. If the family does not respond within 5 business days, the PHA will follow up with a notification letter by regular mail at the applicant's last known address. If a notification letter is returned with no forwarding address or a response is not received within 10 additional days, the family will be removed from the waiting list. The PHA will send a notice of removal to the family's email or physical addresses of record. The family's position on any other Housing Choice Voucher waiting lists of CWL participating housing authorities will not be affected.

The PHA's notice of selection 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

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 will be sent to the family's address of record.

1-III.E. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a PHA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2012-10].

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

PHA Policy

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

All family members over the age of 18 must attend the interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.

All adult family members attending the interview must provide a valid state issued identification card. If a family member does not provide any required documentation at the time of the interview, he or she will be required to provide it within 10 days.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for 30 days . If not all household members have disclosed their SSNs within the 30 day deadline or at the next time the PHA is issuing vouchers, whichever is earlier, the PHA will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, 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. This action will not affect the family's position on any other Housing Choice Voucher waiting lists of CWL participating housing authorities.

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

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

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will be removed from the waiting list. This action will not affect the family's position on any other Housing Choice Voucher waiting lists of CWL participating housing authorities.

1-III.F. COMPLETING THE APPLICATION PROCESS

The PHA must verify all information provided by the family. Based on verified information, the PHA must make a final determination of eligibility and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

PHA Policy

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review or grievance.

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. 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 this action.

In either of the above scenarios, the family's position on any other Housing Choice Voucher waiting lists of CWL participating housing authorities will not be affected.

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

Admin Plan Section 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

PHA Policy

The following nondiscrimination laws or ordinances apply: Chapter 34-37 of the RI General Laws, the Rhode Island Fair Housing Practices Act and Chapter 16, Article II of the City of Providence Code of Ordinances.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination based on other factors.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

PHA Policy

In addition to federally protected classes, Rhode Island state law also prohibits discrimination on the basis of marital status, sexual orientation, age (18+), gender identity or expression, and status as a victim of domestic violence. The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families and Owners

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

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

- Upon receipt of a housing discrimination complaint, the PHA is required to:
- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]

PHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the PHA either orally in the case of a reasonable accommodation complaint or in writing in all other cases.

Within 14 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

Within 14 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

PHA Policy

The PHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the PHA, by including the following language:

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

The Directors of Leased Housing are assigned as the designated staff to process requests for accommodation. The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

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

Types of Reasonable Accommodations

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

PHA Policy

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

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

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

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

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

The PHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

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

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

PHA Policy

After a request for an accommodation is presented, the PHA will respond, in writing, within 14 business days of receiving all of the necessary documentation.

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

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the family, in writing, of its determination within 14 business days from the date of the most recent discussion or communication with the family.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

PHA Policy

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

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

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

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

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

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

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

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

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-III.B. ORAL INTERPRETATION

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

PHA Policy

The PHA will utilize bilingual staff. In the event bilingual staff are not available, the PHA will utilize a language line for telephone interpreter services as well as local interpreter services where needed.

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 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 and possible, according to its language assistance plan (LAP), 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.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

PHA Policy

The PHA will utilize local translation services whenever such services are needed. In order to comply with written-translation obligations, the PHA will take the following steps:

The PHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, 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.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's Housing Choice Voucher program and services.

PHA Policy

If it is determined that the PHA serves very few LEP persons, and the PHA has very limited resources, the PHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the PHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

SECTION 3-ELIGIBILITY FOR ADMISSION

I. Eligibility Criteria

To be eligible for admission, an applicant must meet the following requirements:

A. Family composition must be:

1. A family
2. An elderly family
3. A single person, age 18-61
 - a. A single pregnant woman under 18 years old must satisfy the income limit for one person. If the pregnancy is terminated prior to the issuance of the voucher, the PHA must deny eligibility because this no longer constitutes a family. If the pregnancy is terminated after admission, this qualifies as a residual family member and assistance may continue.
 - b. A single person in the process of adopting should be treated identically to a single pregnant woman.
 - c. A single person in the process of securing legal custody through other means must provide evidence of a "reasonable likelihood of success". If at that time there is not a reasonable likelihood of success, he/she will be allowed to retain his/her place on the waiting list (with the original date and time) until custody is confirmed.
4. A single person is **not** eligible if he/she is enrolled as a student at an institution of higher education, is under 24 years of age, is not a veteran, is unmarried, does not have a dependent child **and** is not otherwise individually eligible or has parents who individually or jointly are not eligible to receive assistance

B. Live-in Aide:

1. A person who is elderly, near elderly and/or has a disability may request a Live in Aide to reside with him/her.
2. The live- in aide must be essential to the care and well-being of the person(s); must not be obligated for support of the person(s) and would not be living in the unit except to provide necessary supportive services.
3. Relatives are not automatically excluded from being live-in aides; however he/she must meet all the requirements of this section.
4. Occasional, intermittent, multiple or rotating care givers do not qualify as a live-in aide.
5. The need for a live in aide must be verified by a doctor's certification.
6. A specific live-in aide must be identified by the Head of Household and must be approved by the PHA.
7. If the live-in aide finds other housing or vacates, the Head of Household is required to notify the PHA within ten (10) days.

8. The subsidized unit must be the live-in aide's sole residence.
 9. The income of the live-in aide is not counted as annual income towards the rent.
 10. A live-in aide is not a member of the assisted family and is not entitled to the voucher (or rental assistance) as the remaining member of the tenant family.
 11. The PHA may refuse to approve a particular person as a live-in aide; or may withdraw such approval if:
 - (a) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
 - (b) The person commits drug-related criminal activity or violent criminal activity; or
 - (c) 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.
 12. The owner has the right to evict a live-in aide who violates any of the house rules.
 13. If the live-in aide commits any infraction as stated above, the PHA will notify the Head of Household that the live-in aide must vacate the unit, and will be afforded another opportunity to designate another person as a live-in aide.
 14. If the live in aide does not pass the screening criteria, the Head of Household will be notified and have the opportunity for an informal conference. The Head of Household also may designate another person to go through the screening process.
 15. The PHA will approve not more than one additional bedroom for a live-in aide. Although a live-in aide may have a PHA approved family member live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the live-in aide.
 16. All live-in aides and, if applicable, their family members, must be entered on the PIC Data Entry Report and coded "L".
- C. Effective 6/19/95, at least one family member must be a U.S. citizen or have eligible immigration status (See *Glossary*).
1. A family in which each member has eligible status qualifies for full financial assistance.
 2. A family in which at least one person is a U.S. citizen or has eligible immigration status qualifies for a prorated assistance (See *Section 3: Rent Calculation* for mixed family).
 3. A family in which no one is a U.S. citizen or has eligible immigration status is not eligible for rental assistance.

- D. At issuance of a voucher, the household's gross annual income may not exceed the applicable income limits of a *very-low income family* (80% of the median income). A *family with "continued assistance"* (currently living in a public housing unit or other subsidized rental assistance) must have gross annual income below the Low Income Limit (50%).
- E. The current HUD-determined income limits are a listed in Appendix #1 and are subject to change.

II. Verification Process

The Leased Housing Staff contacts applicants to begin the verification process as their name approaches the top of the waiting list.

- A. Applicant Interview
 - 1. Applicants are sent an appointment letter to provide original documents to verify family composition, income, assets, citizenship status, etc.
 - 2. All verifications presented must be unaltered originals.
 - 3. A list of required verifications are listed but not limited to the following:
 - a. Date of birth for all family members
 - i. Birth certificate
 - ii. Alien registration card
 - iii. Baptismal certificate
 - iv. Passport
 - v. Driver's license
 - vi. Or other government-issued document
 - b. Picture I.D. for Head of Household and all family members 18 years of age or older.
 - c. Marriage certificate
 - d. Separation papers
 - e. Divorce decree
 - f. Legal custody papers
 - g. Rent and utility receipts
 - h. All family members must disclose a complete and accurate Social Security Number including foster children, foster adults and Live-in Aides. The name(s) on the Social Security Card must match the name used by the family member. Acceptable verification is:
 - i. Social Security Card
 - ii. Name(s) on application must match the Social Security card exactly. If there is a recent name change, applicant must go to the SSA to request a change and provide verification of the updated document upon receipt.

- iii. Documentation issued by the SSA such as a benefit award letter, Medicare card or printout.
 - iv. Or, other original document issued by a federal, state or local government agency verifying name and number. This could include welfare agency documents, military papers, unemployment benefit documents or other government-issued documentation.
- i. SSN documents will be rejected if:
 - i. Are not original
 - ii. Appear to be forged, or
 - iii. Appear to be altered or not legible
 - j. If documents are rejected, the PHA will request acceptable documentation within a specified time frame not to exceed 30 days.
 - k. Exemptions from SSN disclosure requirement are as follows:
 - i. Individuals who do not contend eligible immigration status (mixed family receiving prorated assistance)
 - ii. Current program participants who had not previously disclosed a SSN and who were at least 62 years old on January 31, 2010. This exemption continues to apply at all future reexaminations, moves and moves to another form of housing assistance.
 - l. An individual who does not have a Social Security Number must certify that he/she does not have one.
 - m. An individual without a SSN will have an Alternative Identification Number generated through the PIC system. It is required that future receipt of a Social Security Number be provided to the office within ten days.
 - n. All family members must declare U.S. citizenship or provide verification of eligible immigration status. A parent may sign on behalf of a minor child.
 - o. All family members who are at least 18 years of age must sign release waivers (HUD #9886 and PHA Leased Housing Information Release Waiver).
 - p. Each Head of Household must sign HUD's Debts Owed to Public Housing
 - q. All family members who are at least 18 years of age must provide their source of income or sign a notarized declaration of no income.
 - r. All household members (other than the Head of Household) who are at least 18 years of age must sign the Adult Family Member Statement.

- s. The Head of Household for all applicant families must sign the Supplement to Application for Federally Assisted Housing (HUD Form 92006).
 - t. An applicant family may become a program participant, even if the family lacks the documentation necessary to verify the SSN of a family member less than six (6) years of age. Verifications must be provided within ninety (90) days.
- B. Applicants who do not keep the interview appointment are sent a final interview letter.
- 1. Failure to keep the second appointment results in withdrawal from the waiting list.
- C. Post Interview

The Leased Housing staff must continue to verify information provided at the interview and on the application through online systems if available (Work Number, etc.). Only applicants with continued assistance will be in the EIV databases prior to leasing. At least three (3) months after leasing, staff will check the EIV database to ensure that information given at the interview was complete.

Methods of Verification include but are not limited to:

- 1. Requests for criminal history (BCI) are sent to the PHA's Security Department for all family members 18 years or older. Follow-up with the RI Attorney General's Office and/or the Federal Bureau of Investigation (FBI) may also be required.
- 2. Check PHA records as well as HUD's Debts Owed to PHAs (EIV) to verify any balances still owed by any household member.
 - a. If a balance is on record, a letter is sent to sign a repayment agreement within 10 days
 - b. Failure to respond results in withdrawal of application from waiting list.
 - c. The balance must be paid in full prior to issuance of a voucher
 - d. Applicants may not "sit" at the top of the list while repaying.
- 3. Check HUD's online database for Current Tenants to see if applicant or any household member is already receiving HCV assistance in another jurisdiction.
- 4. Verify legal alien status through the U.S. Citizenship & Immigration (USCIS formerly known as INS) database.
 - a. USCIS confirms legal status
 - b. USCIS request submission of secondary verification prior to issuing clearance

5. The preferred method of obtaining verifications for Social Security and Supplemental Social Security benefits for tenants is online; i.e., Enterprise Income Verification System (EIV). For situations in which the participant disputes the EIV data, it is his/her responsibility to call the SSA's 800 number for a printout of benefits or bring a recent SSA award letter.
6. Applicants, however, must always call the SSA's 800 number for a printout of benefits or bring a current award letter since their information will not be in EIV.
7. The Enterprise Income Verification system is the preferred method of verifying wages, etc. Since it is so far in arrears, any employment or benefits other than Social Security and SSI identified on the site must be verified in another manner.
8. Income verified through the Work Number or other electronic system is preferable to mailing third-party verifications.
9. When data is not available through one of the online systems, one of the following methods will be followed:
10. Computerized printouts are considered more accurate and less likely to be tampered with than written third party verifications. The following verifications are considered acceptable forms provided that they are current:
 - a. Pay stubs – a minimum, of two (2) consecutive pay stubs. PHA will use the average gross amount of hours at the appropriate rate of pay and will compare that to Year to Date Earnings. The higher of the two will be used to project annual income.
 - b. Initial Award letters from Social Security and SSI or any award letter dated after the date received at EIV. In any case, the letter may not be older than 60 days for an applicant.
 - c. Current printout from SSA provided through their 800 number.
 - d. Award of Benefit letters sent by agencies such as FIP, TDI, Workers' Compensation, etc.
 - e. Checks - Income may be verified by two consecutive checks for any monthly retirement benefits.
 - f. Tax Return
 - g. IRS 1099 Form
 - h. Bank Statements – at least the two (2) most recent monthly statements may be used to verify regular direct deposits pensions, etc.
 - i. The current balance and rate will be used to verify assets.
 - j. Effective March 2013, participants whose total family assets are less than five thousand dollars (\$5000) may self-certify the income generated from those assets. All household members 18 years or older must self-certify.

- k. Public Assistance benefit letter - If the amount of assistance documented differs from the established flat rate for a family of the size of the participant's family, PHA will investigate the discrepancy.
 - l. Tax return print out from the IRS especially for the self-employed.
11. Send third party verifications – When none of the above methods are available, the family's anticipated annual income as well as qualifications for deductions must be verified through third-party verifications. Forms must be mailed and may not be hand delivered by the participant. Standardized forms are available for the department staff's use.
- a. Employment
 - b. Public Assistance (RI DHS no longer provides verifications)
 - c. Child support
 - d. Temporary Disability Insurance
 - e. Unemployment Benefits
 - f. Workers' Compensation
 - g. Full-time Student Verification
 - h. Handicapped/Disabled Person Verification
 - i. Daycare Payments
 - j. Medical Expenses
12. At times, agencies do not respond to requests for verification. In the event that the third party verification has not been answered, a second notice will be sent. If, however, a deadline is to be met, the PHA will document the file and the reason the third party verification was not available.
13. Notarized Statement. When it is not reasonably possible to verify income by use of the methods above, income may be verified by a notarized statement from the applicant upon approval of the Department Director

III. Notification of the Denial of a Local Preference

- A. If a family has requested a local preference and was denied one by the PHA, he/she will receive a written notice stating:
- 1. The specific reason for the determination
 - 2. Their right to an informal meeting with the Department Director or designated supervisor
 - 3. The procedure to request a meeting:
 - a. The request must be made in writing to the Department Director or designated supervisor
 - b. It must be received within 10 days of the date of the notice of preference denial.

IV. The Informal Meeting

- A. The Executive Director or his designee will conduct all informal meetings concerning denial of a local preference. The designated hearing officer will not be a member of the Leased Housing staff or any person, or his/her subordinates, who made the decision to deny eligibility or a preference.
- B. Applicant may present written or oral objections to the decision.
- C. Applicant may also bring witnesses and legal counsel.
- D. The Hearing Officer will send a letter of the final determination within ten (10) working days of the hearing. If the applicant must bring additional documentation, the determination will be made within ten (10) working days of the receipt of the verification.
- E. The denial of eligibility or a preference will be upheld if the applicant fails to appear for the hearing.

V. Denial of Assistance

The PHA denies assistance if the family does not meet the criteria for family composition, income, citizenship criteria, or if **any** family member:

- A. Has been evicted from federally assisted housing in the last three (3) years for drug-related criminal activity;
- B. Has ever been terminated from the Certificate or Voucher program by any housing authority;
- C. Commits drug related criminal activity;
 - 1. The PHA may not deny or terminate assistance for such use or possession by a family member, if the family member can demonstrate that he or she:
 - a. has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and
 - b. Is recovering, or has recovered from, such addiction and does not currently use or possess controlled substances. The PHA may require a family member who has engaged in the illegal use of drugs to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

- D. Commits any violent criminal activity;
- E. Is or is subject to a lifetime registration requirement under a State sex offender registration program;
- F. Has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, this termination is immediate and permanent.
- G. New admissions of medical marijuana users are prohibited based on federal law;
- H. Commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- I. Owes rent or other amounts to the PHA or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Housing Act;
- J. Has not reimbursed any housing authority for amounts paid to an owner under HAP contract for rent, damages to a unit, or other amounts owed by the family under the lease;
- K. Has engaged in or threatened abusive or violent behavior towards PHA personnel;
- L. Has failed to sign consent forms for obtaining information.
- M. Has failed to submit required evidence of citizenship or eligible immigration status.

The PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The PHA will consider violent and drug-related criminal activity that has occurred within five years. If an offense occurred more than five years ago and resulted in a prolonged period of incarceration, the offender must have been released for at least five years prior to being eligible.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.

VI. Notification of Denial of Assistance

- A. The PHA will send all families who are denied assistance a written notice stating:
 1. The specific reason for the determination
 2. The right to an informal hearing/review

3. The procedure to follow in order to request one
4. The request must be made in writing to the Department Director or designated supervisor
5. Request must be received within 10 days of the date of the notice. The participant's failure to do so within this timeframe will result in forfeiture of a hearing.

VII. The Informal Hearing

- A. The Executive Director or his designee will conduct all informal hearings. The designated hearing officer will not be a member of the Leased Housing staff or any person, or his/her subordinates, who made the decision to terminate assistance or deny eligibility.
- B. A hearing is not required for discretionary administrative policies.
- C. The Applicant may present written or oral objections to the decision.
- D. The Applicant may also bring witnesses and legal counsel.
- E. Consideration will be given to a family member with an addiction who is recovering and submits evidence of participation in, or successful completion of a treatment program.
- F. The family will be notified in writing of the hearing outcome within ten (10) days.
- G. If the applicant family does not agree with the decision, a written request for a formal grievance hearing can be made within 30 days from the date of the hearing decision.
- H. The denial or termination of assistance will be upheld if the applicant/tenant fails to appear for the hearing.

VIII. Determining Bedroom Size

The following standards will determine the number of bedrooms required:

Number of Persons		
# of Bedrooms	Minimum	Maximum
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

- A. When determining unit size, all children anticipated to reside in a dwelling unit will be included such as:
 1. Children expected to be born to pregnant women

2. Children who are in the process of being adopted by an adult
 3. Children whose custody is being obtained by an adult
 4. Children who are temporarily (not more than 6 months) absent due to placement in foster care may also be included in determining bedroom size
- B. Custody papers must be provided for any minor (other than a child of a household member). who will reside in the unit.
 - C. A parent who has joint custody may include the child(ren) in the household providing that the other parent is not receiving rental assistance for the same child(ren). If there are no legal documents, verification must be provided through school records or other sources that the child spends at least 50% of the time with the parent receiving assistance.
 - D. Effective October 1, 2004, two (2) siblings of the same sex will share a bedroom without regard to age. Previously, upon the request of the Head of Household a separate bedroom could have been authorized if the difference in age was 7 years or more and the older child was at least 13 years of age.
 - E. An infant (up to two years of age) may occupy the same bedroom with parent(s).
 - F. Children of the opposite sex up to five years of age may share the same bedroom.
 - G. Effective October 1, 2004, family members 18 years or older (other than the Head of Household) will not be eligible for a separate room.
 - H. For reasons of health, separate bedrooms may be provided for individual family members when need is verified by a medical professional.
 - I. Foster children will be included in determining bedroom size.
 - J. Persons of the opposite sex (other than spouses, co-heads), persons of different generations (an 18 year or more difference in age), and unrelated adults may have separate bedrooms. They may, however, opt to share with another family member. The decision must be made prior to issuance of the voucher by the Head of Household and if applicable, he/she must provide a notarized statement acknowledging the acceptance of the smaller unit size. Voucher holders will not receive additional search time for having switched bedroom sizes.
 - K. A Live-in Aide may be provided a separate bedroom.
 - L. A living room may not be used as a bedroom if it is the sole living room, except in efficiency (SRO) apartments.
 - M. The family may use the living room as a bedroom in a unit with a double parlor pending results of inspection; i.e., that the room meets all the criteria of a room used for sleeping.

IX Changes of Bedroom Size Allocated

- A. Changes to the original allocation of a family's bedroom size may be made if the family's situation changes to meet the criteria stipulated in Part VIII of this section.
- B. A voucher may be upgraded only if funding, at the time, permits.
- C. Once a family is housed, upon the approval of the PHA, increases in family size resulting from **one** family member moving in may be permitted up to the maximum occupancy standards. The person to be added must pass the screening criteria and any additional income is included in the Annual Income of the family. Addition of another family (more than one person) is prohibited.
- D. If the addition of the family member causes an increase in the voucher size and exceeds the occupancy standards for the current unit, a voucher will be issued and the family will be required to move to the appropriate size unit.
- E. If family size exceeds the maximum occupancy standards (see chart Sect. VIII A), the family will be issued a voucher to seek a unit that meets the family's need.
- F. If there is a decreased change in family composition, the voucher will be reissued and downgraded to the appropriate size at the annual recertification.
- G. If family members have leased a unit, and within 90 days of their names being placed on the lease one or more members are removed from said lease resulting in a lower payment standard, the Providence Housing Authority reserves the right to immediately reduce the payment standard.



SECTION 4-RENT CALCULATION

The first step to calculate any family's rent – whether the participant participates in the Housing Choice Voucher Program or in the Project Based Assistance or Moderate Rehabilitation Program - is to determine the Total Tenant Payment. The TTP is the higher of:

- The gross annual family income less any and all deductions for which the family is qualified, divided by 12, multiplied by 30%.
- Annual Income multiplied by 10% divided by 12
- \$25.00 minimum (Note part IX of this section)

The following sections will clarify what is and is not considered countable income towards rent per Federal Regulations as well as the qualifications for authorized deductions.

I. Annual Income

The gross family income is based on the anticipated total income from all sources (monetary or not) received by the family head and spouse (even if temporarily absent) and by each additional member of the family; including all net income derived from assets for the 12 month period following the effective date of initial determination or reexamination of income. Inclusions and exclusions are listed in the sections below.

A. "Annual Income" includes, but is not limited to:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, military pay, and other compensation for personal services;
2. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the 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 Services regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, less the cost to dispose of the asset, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in part I, paragraph (B) (2) in this section. Any withdrawal of cash or assets from an investment, less the cost to dispose of assets, will be

included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family.

4. Imputed Interest - Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or percentage of the value of such assets based on the current passbook savings rate as determined by HUD (as of October 2012 designated as 0%)
5. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts;
6. Periodic payments from any source in which a family has made an investment, such as an annuity, will only be considered annual income if the family has already received more benefits than what was initially invested.
7. The gross amount of payments in lieu of earnings, such as Unemployment and Disability Compensation severance pay (but see part I, paragraph (B) (3) in this section);
8. Public assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of Public assistance income to be included as income shall consist of:
 - a. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus
 - b. The maximum amount that the public assistance agency could in fact allow the family for shelter and utilities. If the family's public assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated (1) under this part I, paragraph (B) (6b), shall be the amount resulting from one application of the percentage;
 - c. Imputed Welfare Income – Reduced benefits due to fraud, failure to comply with the participation in an economic self-sufficiency requirement or any other non-compliance with TANF will not be considered when calculating gross family income.
 - d. The sanction does not apply when a person:
 1. Reached the lifetime or other time limit on benefits
 2. Failed to obtain employment despite fulfillment of DHS requirements
 3. Does not comply with any other welfare agency requirement.
 - e. If the family's rent income increases for any reason after the sanction is imposed, the amount of imputed

welfare income is offset by the amount of additional income.

- f. If the family's rent income increases for any reason after the sanction is imposed, the amount of imputed welfare income is offset by the amount of additional income. Whether the new income is earned or unearned, it replaces the imputed welfare income during the sanction period.
 9. Alimony, child support and other periodic and determinable allowances;
 10. Regular contributions or gifts received from persons not residing in the dwelling, including rent and utility payments made on behalf of a family and other cash and noncash contributions;
 11. All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) but see part I, paragraph (C) in this section); and
 12. Financial assistance *other than* amounts received for tuition (as defined by the institution) or student loan proceeds under the Higher Education Act of 1965 for those students who meet **all** the following criteria:
 - a. Is enrolled at an institution of higher education either part-time or full-time
 - b. Not receiving/seeking assistance with their own parents
 - c. Is less than 24 years of age
 - d. Has no dependent child(ren) – (foster children do not apply)
- B. Annual income does **not** include:
1. Non-Wage Sources:
 - a. Temporary, nonrecurring or sporadic income (including gifts);
 - b. The full amount of a student's financial assistance student loans, GI Bill, Pell grants, other grants and scholarships.
 - c. Amounts that are specifically for, or in reimbursement of the cost of medical expenses.
 - d. Lump-sum additions due to a delayed start of SS, SSI, and VA disability benefits.
 - e. Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (but see part I, paragraph (A) (5) in this section);
 - f. Payments received for the care of foster children or foster adults (usually individuals with disabilities,

- unrelated to the tenant family, who are unable to live alone);
- g. Adoption Assistance payments in excess of \$480.00 per adopted child;
 - h. Refunds or rebates under state or local law for property taxes paid on dwelling unit;
 - i. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusion set forth in 24 CFR 5.609 (17)
 - j. Payments or allowances under DHHS' low-income home energy assistance program
 - k. Federal 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 program;
 - l. Payments received from programs funded under Title V of the Older Americans Act of 1965;]
 - m. Payments received on or after January 1, 1989 from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in the Agent Orange product liability litigation;
 - n. Earned Income Tax Credit refund tax payments;
 - o. Any allowance paid under provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is a child of a Vietnam Veteran;
 - p. 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;
 - q. Relocation payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
 - r. Any amount of crime victim compensation that the applicant receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims Crime Act because of the commission of a crime against the applicant;
2. Child Support:
 - a. Child care arranged or provided under the Child Care and Development Block Grant Act

3. Medical Expenses
 - a. Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member

4. Wages
 - a. Income from employment of children or foster children under 18 years old;
 - b. Earned income in excess of \$480 for each full-time student 18 years old or older (excluding the Head of Household and Spouse);
Note: Income from benefits including Unemployment, SS, TDI, etc. is countable income for Full-time students.
 - c. Earned income disallowance for persons with disabilities (25 CFR 5.617)
 - d. Amounts earned by temporary Census employees; terms of employment may not exceed 180 days for the purposes of the exclusion;
 - e. Income of a Live-In Aid, as defined in 24 CFR 5.403;
 - f. Income of a Foster Adult or foster child
 - g. Earnings and benefits from employment training programs funded by HUD
 - h. Reimbursement for out-of-pocket expenses while attending a public assisted training program;
 - i. Incremental earnings and benefits from participation in qualifying state and local employment programs;
 - j. Payments to volunteers under the Domestic Volunteer Services Act; Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
 - k. Payments received under programs funded in whole or in part under the Workforce Investment Act formerly known as Job Training Partnership Act (JTPA);
 - l. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by the resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

5. Military pay
 - a. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
 - b. The full amount of military pay of any family member other than the head and spouse. If other family members are away from home in the military,

- the PHA may remove their name from the lease and exclude their income;
- c. Other pay specifically excluded by law (e.g. Desert storm active duty)
6. Public Assistance
 - a. 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;
 - b. Supplemental Nutrition Assistance Program (SNAP)
 - c. Work subsidies (i.e. payments to employers or third parties to help cover the costs of employee wages, benefits, supervision and training);
 - d. Supportive services such as child care and transportation provided to families who are employed.
 - e. Individual Development Accounts;
 - f. Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support;
 - g. Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to Section 404 (k) of the Act, to an individual who is not otherwise receiving assistance.
 7. Pensions, Social Security, SSI
 - a. Lump-sum benefits payable as a death benefit;
 - b. Deferred periodic amounts from SS/SSI benefits that the family member received in a lump sum amount or in prospective monthly amounts
 8. Indian Trust/per capita
 - a. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626 (a))
 - b. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 8621-8629)
 - c. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L 94-540, 90 Stat. 2503-2504)
 - d. The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims, 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 for an Indian tribe by the Secretary of Interior (25 U.S.C. 1407-1498).

- e. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
 - f. 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)
- C. Each member of the family (18 years of age or older) who declares that he/she does not have any of the above types of income must sign a Declaration of No Income.
 - D. Entire households that declare no income will be scheduled for a review with a supervisor at least every six (6) months.
 - E. The PHA will project annual income for households such as those working in the school department (eligible for unemployment benefits every year) by annualizing the appropriate number of weeks of employment plus the corresponding number of weeks of unemployment.
 - F. Verification of Income
See Section 2: Eligibility for Admission

II. Mandatory Earned Income Disallowance

This disallowance is only for an adult participant who is a *person with a disability* and meets the following criteria:

- A. Previously Unemployed
 - 1. Must have been previously unemployed for one or more years
 - 2. Includes a person who has earned in the previous twelve months less than 500 times the minimum wage; currently \$4,800.00.
- B. Increased Earnings
 - 1. Increased employment income during the participation of a family member in any economic self-sufficiency or other job training programs. This includes job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, any other necessity for work.
 - 2. Income increase must occur during the self-sufficiency or job training program not after.
- C. New/Increased Earnings
 - 1. New employment or earned income increases for any family member who received any amount of TANF monthly income maintenance during the last 6 months, or

2. Whose total amount of other TANF related benefits over the 6 month period was at least \$500
3. If any member of the family in the household, is receiving TANF and another member of the family obtains employment, the amount earned by the new working member would be excluded under the disregard.

D. Duration of Exclusion

1. For families eligible for and participating in the disallowance of earned income prior to May 9, 2016 will be governed by paragraphs 1-3 of this section.
2. Initial full exclusion of the increase begins on the date the family member is employed or first experiences increase in income due to employment. This extends a total of *12 cumulative months*.
3. Second 12 month Exclusion – *50% of the increase* is excluded for a total of 12 cumulative months after the family has completed 12 cumulative months of full exclusion.
4. Four (4) year lifetime maximum disallowance period - No exclusion may be given 48 months after the person first qualified for an exclusion.
5. Families newly eligible for the Earned Income Disregard as of May 10, 2016, will have a fixed 24 month period that starts once the family member is determined to be eligible for the EID.

III. Deductions

Annual income may be adjusted only if the participant or applicant qualifies for at least one of the deductions listed below. Some may not be eligible for any deduction.

A. Elderly Household Deduction

1. \$400 per family for all families in which the **head or spouse** is at least 62 years of age or a handicapped or disabled person.
2. The \$400 is a household deduction. This deduction is not per applicable person; a family never receives more than \$400. even if both head and spouse are elderly.

B. Medical Expenses

1. The medical expense deduction is permitted ONLY for households in which the head or spouse is at least 62 years of age, or a handicapped or disabled person. The family, therefore, must receive the \$400 elderly household deduction in order to continue looking at medical expenses,
2. If the household is eligible for a medical expense deduction, the medical expenses of *all* family members are counted.
3. Medical expenses are expenses anticipated to be incurred during the 12 months following certification/recertification.

4. These amounts may not be covered or reimbursed by an outside source such as insurance (See #5 for exception). They may include:
 - Services of doctors and health care professionals
 - Services of health care facilities
 - Prescription/non-prescription medicines
 - Transportation to treatment
 - Dental expenses, eyeglasses, hearing aids, batteries
 - Live-in or periodic medical assistance
 - Monthly payment on accumulated medical bills
 - Medical care of a permanently institutionalized family member if his/her income is included in annual income

5. Medicare Prescription Drug Discount Card -Where all or part of the cost for prescription drugs is covered by the Medicare prescription drug discount or transitional assistance, neither the drug discount nor the transitional assistance should be considered a reimbursement for the purpose of calculating the medical expense deduction. The full cost of the drug prior to the Medicare negotiated price as well as any enrollment fee for the card will be used to calculate medical expenses.

6. The deduction is **only** that portion of the total medical expenses that is in excess of 3% of annual income.

C. Allowance for Handicapped/Disabled Family Members.

1. Families may deduct anticipated expenses for care attendants and "auxiliary apparatus" for handicapped or disabled family members if such expenses:
 - Enable a family member (including the handicapped family member) to work;
 - Exceed 3% of Annual Income; and
 - Do not exceed the earned income of the household member(s) enabled to work.

2. Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, special equipment to enable a blind person to read or type, etc., if directly related to permitting the handicapped person or other family member to work.

3. Specialized calculation for households who are eligible for Handicap Assistance and Medical Expenses:
 - a. If a family has both medical expenses and handicap assistance expenses, a special calculation is required.
 - b. 3% of annual income must first be deducted from the handicap assistance expenses. Any remainder is then deducted from total medical expenses.

D. Dependent Allowance

A dependant allowance of \$480 is given to each family member excluding the Head, Spouse, foster child, or live-in attendant who is:

1. Under 18 years of age including adopted children;
2. Handicapped or disabled (any age); or
3. Full-time student (any age).

E. Child Care

1. Reasonable anticipated expenses for the care of children, including foster children, under the age of 13 and younger may be deducted from annual income if *all* of the following are true:
 - The care is necessary to enable a family member to work or further his/her education (academic or vocational);
 - The expense is not reimbursed by an agency or individual outside the household; and
 - The expenses incurred to enable a family member to work do not exceed the amount earned.
2. Child support payments to guardians or estranged partners on behalf of a minor who is not living in the applicant household cannot be deducted.
3. Expenses for the care of handicapped or disabled family members over the age of 12 cannot be deducted as a child care expense, but see part II, paragraph (C) above.

IV. Utility Allowance

Utility allowances are reviewed annually and updated as needed when there is at least a 10% increase/decrease in the rates. The Utility Allowance Schedule is located in Appendix #3.

- A. The allowances are categorized by bedroom size.
- B. Allowances may be given for usage of
 1. Heat
 2. Cooking
 3. Electricity
 4. Hot water
- C. The allowance is also categorized by the type of service used; i.e., gas, oil or electric.
- D. Allowances are also given for provision of the following appliances:
 1. Stove

2. Refrigerator

- E. Owners may request a maximum of \$25 for parking (if the and \$25 use of the washer (only if the tenant has a car/washer). This will be put in writing but is not a part of the lease and is not considered "rent".

V. Calculation for Housing Choice Vouchers

Calculation for participation in the Voucher program differs from the Certificate Calculation in that the tenant has the option of paying more than 30% of his/her income towards the rent.

- A. The Total Tenant Payment is calculated according to the regulations stated in previous sections.

The Total Tenant Payment is subtracted from *the lower of* the payment standard (Appendix 3) for the bedroom size as stipulated on the voucher or the gross rent. The difference is the amount to be paid by the PHA.

- B. The contract rent less the Housing Authority's contribution is the amount which the tenant owes to the landlord each month.
- C. Tenant must pay at least the higher of: 30% of the adjusted gross income, 10% of the monthly gross income or the minimum rent.
- D. Tenant's portion is capped at 40% for the initial term of the lease. The requirement is not applicable if the family stays in the same unit where the family initially received rental assistance for occupancy of the unit before 10/1/99.
- E. In cases in which the PHA is paying the entire rent to owner, the PHA may also send a utility reimbursement check to the tenant. This occurs when the utility allowance is higher than thirty percent (30%) of the tenant's adjusted income.

Current Payment Standards are located in Appendix 3

VI. Calculation for Prorated Assistance for Mixed Family Housing Choice Voucher Holders

- A. The Total Tenant Payment is calculated according to the regulations cited in preceding sections.
- B. Subtract the Total Tenant Payment from the Payment Standard.
- C. Create a fraction wherein the eligible family members are over the total family members (Example 5/7 is a family of seven that has 5 persons with eligible status.)
- D. Multiply the result of Step B by the fraction in Step C. This is the amount of the HAP paid by the PHA.
- E. Gross Rent less the result of Step D is the Tenant's portion of the rent.

VII. Exclusions to Application of the Minimum Rent

- A. The PHA has set the minimum rent at \$25 per month. HUD has identified five (5) circumstances in which a family may request a hardship exemption. These are:
1. When the family has lost eligibility for, or is waiting for an eligibility determination for a Federal, State or local assistance program.
 2. When the family would be evicted as a result of the imposition of the minimum rent requirement
 3. When the income of the family has decreased because of changed circumstances, including loss of employment
 4. When the family has an increase in expenses because of changed circumstances, for medical costs, childcare, transportation, education or similar items
 5. When a death has occurred in the family.
- B. In addition, the PHA has approved the following exemptions:
1. Elderly families (age 62 or older) who are not eligible for benefits would not pay a minimum rent.
 2. Any family pending benefits would not pay the minimum rent. If a family is denied benefits, or is appealing an agency decision, it will be required to pay.
 3. Any family not eligible for benefits who provides the PHA with verifiable work search documentation upon request.
- C. If the family requests a hardship exemption, the PHA will suspend the minimum rent for the month following the family's request. This will continue until it can determine whether the hardship exists and the length of its duration.
- D. If it is determined that there is no qualifying hardship, the minimum rent will be reinstated, and the family will be required to reimburse the PHA for the rent during the time of suspension.



SECTION 5-BRIEFING AND ISSUANCE OF VOUCHERS

I. Briefing Session

This session is an oral presentation that educates prospective participants of their rights and responsibilities as well as those of the owners and the PHA. It also serves as a general orientation to the Rental Assistance Program. Those who attend are applicants who have already met the eligibility criteria and whose income has been verified within the past sixty (60) days. After the session, families are issued a voucher.

A. Session

1. Attendance by the Head of Household or other adult family member is mandatory.
2. The session is informal and held for a small group (usually 15 or less) to encourage questions.
3. In briefing a family that includes a disabled person, the PHA will ensure effective communication in accordance with 24 CFR 8.6.

B. Information Discussed During Briefing

The following items are explained during each briefing.

1. A general description of the program
2. Family responsibilities
3. Owner responsibilities
4. Standards of acceptable units
5. Portability options to other cities
6. Requirement to provide 30 day written notice of move if residing in any subsidized unit including Public Housing.

C. Information Packet

The family is also provided with an information packet "Resident Guide to Rental Assistance". The information contained in this booklet is also reviewed orally during the briefing.

1. The term of the voucher
2. Applicability of extensions
3. The process determining Housing Assistance Payments
4. Fair Market Rents
5. Utility Allowance
6. Payment standards
7. Determination of maximum rent
8. Portability procedures
9. Lease Amendment
10. Request for Lease Approval Form and its use
11. Policy providing landlord with family information

12. Subsidy standards and any applicable exceptions
13. HUD brochure on how to select a unit
14. HUD required Lead Paint brochure
15. Federal, state and local equal opportunity laws
16. Copy of housing discrimination complaint forms.
17. Refer to posting on boards of owners willing to lease to participating families as well as check the PHA website.
18. If a family includes a disabled person, he/she may request a current listing of accessible units known to the PHA.
19. Family obligations
20. Grounds for termination of assistance
21. Informal hearing procedures
22. List of Housing Authorities for those interested in porting out

II. Issuance of Voucher

- A. Selection from the Waiting List
 1. A family on the waiting list will be issued a Housing Choice Voucher when its eligibility has been verified and there is an available subsidy.
 - a. If, however, HUD awards the PHA funding for a specified category of families on the waiting list, only applicants in the specified category can be offered assistance.
 - b. HUD approved special admissions to the voucher program may bypass the waiting list. Ex: Participants living in a unit whose Moderate Rehab. contract expires may bypass the waiting list and continue assistance under a program designated by HUD.
 2. Applicants will be divided into two (2) categories – exceptionally low and very low – and remain in order by date of application.
 3. Applicants will be selected at a 3:1 ratio so that 75% of all new admissions will be from the exceptionally low category.
 4. If funding cannot accommodate the size of the family, no other family of a smaller size will be issued a voucher until the first family has been assisted.
- B. Selection of Program
 1. As of October 1, 1999, all tenant based assistance applicants will receive a Housing Choice Voucher.
- C. Term of the Voucher
 1. The initial term must be at least sixty (60) calendar days and is printed on the voucher form.

2. Extensions requested in writing may be authorized with the approval of the Department Director.
 - a. The request must be submitted prior to the expiration of the term.
 - b. The family must show that they have been actively searching for a unit.
 - c. Other special circumstances such as illness or family emergency will be considered.
 - d. A maximum of two (2) extensions (from the initial expiration date) of 30 days each are allowed for a total number of search days not to exceed one hundred twenty (120) days.
- D. Expiration of Voucher
1. If a family allows the term of the voucher to expire, he/she forfeits participation in the program.
 2. The family may complete an application and go to the bottom of the waiting list provided that the list is open.
 3. Effective July 1, 2001 and when market conditions warrant, the entire 120 days will be given on the initial voucher without requiring families to return for extensions
 - a. As a reasonable accommodation, a family which includes a disabled person may request (in writing) an additional 30 day extension if the reason is that they are having difficulty finding an accessible unit.
 - b. A family which includes a child with an elevated blood level (EBL) will be granted an additional 30 day extension to locate a lead safe unit.

SECTION 6-INSPECTIONS

I. General Information

- A. Units of any Section 8 Program must meet the inspection criteria at the time of leasing and throughout the term of assistance.
- B. Housing Quality Standards (HQS) are the minimum acceptable standards used.
- C. Each unit will be inspected at least once during a twenty-four (24) month period.
- D. In accordance with RI State Law, upon each initial lease/move, the owner will provide a valid Lead Conformance Certificate if the house is not owner-occupied.
- E. The PHA will also conduct supervisory quality control HQS inspections on a percentage of units as stipulated by HUD.
- F. The PHA will not charge the family or owner for initial inspections or reinspections but may charge for repeated reinspections.
- G. Alternate Inspection Methods for Homeownership
 1. The PHA may authorize the initial occupancy of a Homeownership unit if an independent professional inspection, in accordance with §982.631(b)(1), has been conducted and the PHA can confirm by reviewing the independent inspection that the unit meets HQS requirements.
 2. The PHA has the discretion to disapprove the unit for assistance under the homeownership option because of any information contained in the inspection report in accordance with §982.631(b)(4).
 3. The PHA may decline to use the independent professional inspection if there is insufficient documentation of the condition of the homeownership unit or if the information is more than ninety (90) days old.
- H. Certification of Repairs
 1. In lieu of a reinspection the PHA may allow an owner to self-certify that all outstanding violations have been repaired and that the unit meets all HQS. Not all re-inspections may be eligible to use an owner self-certification. The PHA will provide eligible owners with a certification if eligible
 2. Owners signing the self-certification understand that:

- a. The PHA may conduct Quality Control Inspections without prior notice; and,
- b. If it is then determined that the repair(s) was not completed in a satisfactory manner, future housing assistance payments will be abated and any previously paid (affected by this fail item) will be recouped.
- c. That providing false statements, committing misrepresentations or fraud may be grounds for termination of participation in Section 8 Rental Assistance Programs and is punishable under State and Federal Law

I. Enforcement of HQS does not create any right of the family, or any party other than HUD or the PHA:

- 1. To require enforcement of the HQS requirements by HUD or the PHA,
- 2. Or to assert any claim against HUD or the PHA for damages, injunction or other relief, for alleged failure to enforce the HQS.

J. HQS documents performance and acceptable criteria as detailed in CFR 982.401 related to the following areas:

- 1. Sanitary facilities
- 2. Food preparation
- 3. Refuse disposal
- 4. Space and security
- 5. Thermal environment
- 6. Illumination and electricity
- 7. Structure and materials
- 8. Interior air Quality
- 9. Water supply
- 10. Lead based paint
- 11. Access
- 12. Site and neighborhood
- 13. Sanitary condition
- 14. Smoke detectors

II. **Inspector's protocol**

- A. The inspector will not enter any unit if there is not a person 18 years or older present.
- B. If the inspector enters the unit and finds that there are too many violations and the unit is obviously not ready for inspection,

he will advise the owner to call when the unit is ready for inspection.

C. The inspector will not enter any other person's living space to get to the tenant's unit and/or the basement.

D. When conducting inspections at the developments and accompanied by Management staff with the master key, the inspector will not enter if tenants have not been provided with forty-eight (48) hour written notice in accordance with RI State Law.

E. An Inspector will not enter a unit if neither the tenant (nor his/her adult representative), nor the owner/agent is present.

III. Initial inspections

A. Prior to leasing, the inspector meets the owner and preferably the tenant also to check the unit for violations.

B. If the inspector enters the unit and finds that there are too many violations and the unit is obviously not ready for inspection, he will advise the owner to call when the unit is ready for inspection.

C. The inspector should also note any rehab work such as replacement of windows, boilers, roof, lead abatement, etc. which can assist the Program Representative in determining rent reasonableness.

D. If any violations are present, the inspector points them out to the owner and gives him/her a written list of work to be done prior to leasing.

E. The prospective tenant is told not to move in until authorized to do so by the Program Representative.

F. The owner should give the inspector an approximate date of completion so that the tenant can plan and make arrangements for the move.

G. When the owner notifies the PHA that all work has been completed, the inspector will return to verify it.

H. If the work is too extensive and the tenant must move quickly, the Program Representative may advise the tenant to look for another unit provided that the voucher has not expired.

I. No unit may be leased if a fail item is cited.

IV. Complaint/Annual Inspections

A. Type

1. Complaint- throughout the year, either the owner or tenant may request an inspector to document a specific problem.
 2. Biennial – At least once every twenty-four months (usually within 120 days of renewal of the lease) the PHA will inspect the unit.
- B. Access
1. The tenant is sent a letter which states the date and time to expect the inspector.
 - a. The letter also indicates that the inspector will not enter unless there is an adult (at least 18 years old) present.
 - b. If the inspector is unable to gain access, a second notice will be sent indicating that if the appointment is not kept, the tenant will be terminated. A copy will be sent to the tenant and a copy to the landlord.
 2. Inspector conducts an HQS inspection citing any failed items as well as pass with comments.
- C. Notification to Landlord
1. PHA sends the owner a notice listing all deficiencies within the unit and premises. The tenant receives a notice of the reinspection date.
 2. The notice also states the time frame for completion of the work.
 - a. Emergency items must be corrected within 24 hours. This includes but is not limited to:
 - i. Fire hazards
 - ii. Safety/health hazards
 - iii. Electrical hazards
 - iv. Lack of or inability to maintain heat, hot water, or other utility
 - v. Major plumbing leak
 - vi. Natural gas leak
 - vii. Unusable toilet when only one is present in the unit
 - viii. Security risks such as broken doors/broken locks.
 - b. Non-emergency items must be corrected within the timeframe set by the inspector; i.e., up to thirty (30) days.
 - c. Extensions may be granted for a reasonable documented delay and for violations such as painting outdoors which is subject to weather conditions. All extensions must be requested in writing by the owner/agent prior to the reinspection date.

3. The tenant is sent a notice of the reinspection date.
 4. The owner is notified of the reinspection date and a list of violations.
- D. Reinspection
1. By appointment, the inspector will return to the unit to verify that the corrections have been made.
 - a. Up to thirty (30) days after the initial inspection,
 - b. The inspector will return earlier if the owner finishes the work and requests it.
 2. If all items are not corrected upon reinspection, the owner will be notified in writing of the findings.
 3. If the inspector is unable to gain access, the tenant will receive a final notice (copy to the owner). Failure to allow access will result in termination.
- E. Failure to Correct Violations
1. If any "fail" violations exist after reinspection, the housing assistance payment will be abated, and the HAP contract may be terminated.
 2. Tenants are not responsible to pay the PHA's abated portion.
 3. When deficiencies are corrected and a pass status is verified, the abatement period will end. Rent will resume the following day and be paid on the first day of the next month provided that the contract was not already terminated.
 4. Refusal to correct the violation within sixty (60) days from the initial inspection will result in the termination of the contract.
 5. Upon termination of the contract, the family will be issued a voucher to move. The family will have one hundred and twenty (120) days to submit a Request for Tenancy Approval. An additional thirty (30) day extension will be given to a family with a disabled person or a child with an elevated blood level

V. Additional Inspection Requirements for units occupied by a child with an elevated blood level (ebl)

- A. Initial Notification of Lead Poisoning
1. Upon notification of an address match to a child with an elevated blood level, a state-certified Lead Inspector must conduct an inspection of the unit.
 - a. If the child's blood level measures 15-19 ug/dl., the cost and responsibility of scheduling the inspection belongs to the PHA.

- b. If the child's blood level is 20 ug/dl and above, the RI Department of Health (RIDOH) will be responsible for the initial inspection.
 2. The Lead Inspector will notify the owner and the PHA of the findings in a written evaluation of the property.
 3. The PHA will notify the owner to correct the problem within thirty (30) days.
 - a. An extension may be requested if the owner is attempting to comply but awaiting approval for available funding.
 - b. An extension may also be requested for exterior work that must be postponed due to weather conditions.
- B. Moves
 1. Any move after the initial inspection requires the prospective owner to provide documentation of:
 - a. The unit built after January 1, 1978 or
 - b. A valid, current Lead Safe Certificate issued by the RI Department of Health.
 2. If the owner cannot provide verification that the unit was built after January 1978 or that the unit has a lead safe status, the PHA must contract with a state certified Lead Inspector to ensure the unit is lead safe.
 3. This process must continue upon each move until the child reaches the age of seven (7).
- C. Recertification for a unit built prior to 1978
 1. If the participating family remains in place after the first year of occupancy, the owner must provide an updated Lead Safe Certificate.
 2. If the updated certificate is not provided, the family will be issued a voucher to search for another unit.

SECTION 7-LEASING POLICIES

A program participant has the obligation of finding his/her own unit. Landlords interested in leasing to a family with rental assistance may post vacant units on the PHA's information board by completing an informational card or registering the unit online at www.pha-providence.com.

The PHA enters into a contract with the property owner to make payments on the Tenant's behalf. The PHA is not a party to the lease. It is, therefore, the landlord's responsibility to screen the tenant and enforce the lease. The PHA may release previous landlord's names and addresses as well as any information concerning eviction actions or drug activity upon the prospective landlord's request to assist him/her in the screening process. Landlords may not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability or any other reason cited in local, State or Federal law.

I. Term of the Lease/Contract

- A. The following must be completed **prior to** the beginning of the lease term:
 1. If participant is residing in any subsidized unit including Public Housing, he/she must provide a written 30 day notice.
 2. Unit has a Lead Conformance Certificate or is exempt according to RI State Law.
 3. Unit has passed the HQS inspection
 4. The landlord has not been disapproved to participate in the program in accordance with Section 8 criteria
 5. The landlord and tenant have executed the lease
 6. The PHA has approved the leasing in accordance with program requirements
- B. The contract between the PHA and the landlord must be executed no later than sixty (60) calendar days from the beginning of the lease term. Every effort, however, is made to sign the contract at the same time as the lease.
 1. Assistance payments may not be made until the contract is signed.
 2. Any HAP contract not executed within the sixty (60) day period is void and housing assistance payments to the owner will not be made.
- C. The initial lease is in effect for one (1) year.

- D. Leasings are effective on the first of the month. In special circumstances and with the Director's approval, a tenant may be leased on the fifteenth (15th). There may be no overlap in subsidy payments.
- E. After the first year, the lease is renewed on a month to month basis and can be broken upon a written thirty (30) day notice. (Refer to procedures in *Section 9: Moves*).
- F. The lease may be rescinded during the first year by mutual agreement of the tenant and andlord with the approval of the Department Director in situations such as a fire or serious medical problems.
- G. The lease may not be rescinded because rent is in arrears or the owner wants to avoid enforcing the lease.
- H. A tenant who moves without PHA approval will be terminated from the program.
- I. After the initial term, the lease terminates if any of the following occurs:
 - 1. The owner terminates the lease
 - 2. The tenant terminates the lease
 - 3. The owner and the tenant agree to terminate the lease
 - 4. The PHA terminates the HAP contract
 - 5. The PHA terminates assistance for the family

II. Content and Approval of Lease

- A. The tenant must have legal capacity to enter into a lease under RI State Law.
- B. The lease between the tenant and owner (including any new lease or lease revision) must be approved by the PHA.
- C. The following lease provisions are required if the landlord does not use the PHA's standard lease:
 - 1. The lease must include word-for-word all provisions of the lease language required by HUD.
 - 2. If there is any conflict between the lease and any other provisions of the lease, the provisions required by HUD shall control.
 - 3. The lease must provide for automatic renewal for successive definite terms (Ex: month to month).
 - 4. Utilities and appliances - The lease must specify which utilities and appliances are to be supplied by the owner and those which are supplied by the tenant.

5. All provisions in the lease must comply with State or local law.
6. The lease must state that the following types of lease provisions are prohibited
 - a. Agreement to be sued: Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the owner, in a lawsuit brought in connection with the lease.
 - b. Treatment of personal property: Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant, and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property left in the dwelling unit after the tenant has moved out. This must be disposed of in accordance with State and local law.
 - c. Excusing owner from responsibility: Agreement by the tenant not to hold the owner or the owner's agent legally responsible for any action or failure to act, whether intentional or negligent.
 - d. Waiver of Notice: Agreement by the tenant that the owner may bring a lawsuit against the tenant without notice to the tenant.
 - e. Waiver of legal proceedings: Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense before a court decision on the rights of the parties.
 - f. Waiver of a jury trial: Agreement by the tenant to waive any right to a trial by jury.
 - g. Waiver of right to appeal court decision: Agreement by the tenant to waive any right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
 - h. Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay the owner's attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

III. Unit Selection

- A. The unit selected by the family must be within the PHA's jurisdiction (the city of Providence).

- B. A family who chooses a unit outside of the PHA's jurisdiction will be referred to the appropriate housing agency. (Refer to procedures in *Section 10: Portability*).
- C. The selected unit must pass the Housing Quality Standards (HQS) inspection on or before to the effective date of the lease.
- D. The unit must have at least the number of bedrooms allocated on the family's voucher.
- E. The landlord must disclose any knowledge of the presence of Lead Based Paint and sign a Lead Disclosure Statement.

IV. Proof of Ownership

- A. Each landlord must provide proof of ownership, i.e., a deed, insurance binder, mortgage documents and/or current tax bill are acceptable documentation of ownership.
- B. All owners named on the deed must sign the lease or provide a notarized statement authorizing the other(s) to act as agent(s).
- C. An owner must submit proof of ownership as described in paragraph A above and a notarized statement as listed in paragraphs A and B above if he uses a rental agency or other person to act as his agent.
- D. All owners and agents must provide a picture ID.
- E. All owners and/or agents must provide a government issued document listing either the Social Security Number or Federal Tax ID Number to be listed on the 1099 form.
- F. All owners and agents must sign a disclosure of any knowledge on the presence of lead paint in the unit.
- G. Owners residing out of state must register an agent with the Secretary of State's Office in accordance with RI State Law.
- H. Payments are contingent upon the receipt of all information.

V. Rent

- A. Rent and utilities must not exceed the Rent Reasonableness for the area, type and condition of the unit.

1. A Rent Reasonableness Survey of unsubsidized rental units in Providence is conducted at least annually but may be done semi-annually or quarterly if extreme fluctuations in the rental market occur.
 2. Rent reasonableness takes into consideration location, quality, size, unit type and age as well as the amenities, maintenance and utilities provided by the owner.
 3. Reasonableness is also determined before any increase in rent to owner or if there is a 5% decrease in the published FMR in effect 60 days before the contract anniversary compared to that in effect the prior year.
- B. Participants may select a larger size unit than the voucher size issued. The applicable Payment Standard, however, is based on the voucher size. The utility allowance schedule is based on the voucher size in this case (lower of voucher or bedroom size)
- C. If a family has leased a unit and within 90 days of their names being placed on the lease, are removed from said lease resulting in a lower payment standard, the PHA reserves the right to immediately reduce the payment standard and/or begin the termination process for falsifying family composition.
- D. The current Fair Market Rents are listed in Appendix 2:
- E. Rent will be negotiated.
1. Families may decide to pay more than 30% of their income towards rent and utilities. The unit, however, must still be comparable to others in the area. The rent will be set according to the rent reasonableness for a comparable unit within the neighborhood. Consideration for a higher rent will be given if the owner has made the unit lead safe, renovated, made major repairs such as a new heating system roof, etc. The unit must be categorized as in above-average condition.
 2. Rent may be approved only if it meets the rent reasonableness standard and the family's portion does not exceed forty percent (40%) of the adjusted family income.
- F. The lease will stipulate the amount of rent to be paid to the owner by the tenant and PHA.
- G. An additional fee for parking and/or for use of washer/dryer (not to exceed \$25.00 per month each) may be collected; however, the PHA must be made aware of it and a copy of

the agreement signed by both parties must be placed in the file.

- H. The tenant and landlord may not enter into any side agreements for additional fees other than what is authorized by the PHA. Payments may not be made for any reason including but not limited to excess utility charges, water or sewer bills, subleasing, and additional rent.
- I. Any violation by either party of part V, paragraph (G) above will result in termination from the program. Collaboration by both parties will result in termination both.

VI. Utilities

- A. Utilities must be paid by the party stipulated on the lease.
 - 1. Tenant Paid Utilities: The bill should be in the name of the tenant or other household member on the lease.
 - 2. If service is billed to a person not on the lease, verification is required that person has his//her own residence.
 - 3. Landlords may not put the bill in their name and request that the tenant reimburse them.
- B. If the landlord pays the utilities, the bill may not be in the tenant's name.
- C. The family will be terminated if it is responsible for a utility and it is shut off due to non-payment.
- D. Effective January 2015, at recertification or move to a new unit, the utility allowances will be determined by the bedroom size on the voucher or the actual number of bedrooms in the apartment **whichever is smaller**.
- E. The Utility Allowance Schedule is located in Appendix 3.

VII. Security Deposit

- A. Effective 10/2/95, landlords may request a tenant to pay a reasonable amount (not to exceed one month's rent according to RI State Law) as a security deposit.
- B. The security deposit should be held in an account and returned to the tenant according to RI State Law.
- C. The PHA will not pay, vacancy, damage or unpaid rent claims for contracts in effect since 10/2/95.

- D. Claims will be processed for contracts in effect prior to 10/2/95. (See *Section 13: Claims*)

VIII. Change in Ownership

- A. If the owner sells the property, the new owner may assume the lease and receive payments after providing all required documents as listed in Part IV of this section.
- B. If the owner would like the tenant to move, the procedures in *Section 9: Moves* must be followed.
- C. If the tenant is within the initial term of the lease and does not wish to move, they will be advised to seek legal counsel.
- D. If a new owner buys a property with existing violations, he/she will be given a copy of the violations and 30 days to make the repairs before payment is abated.

IX. Vacate Notice

- A. A written thirty (30) day notice must be signed by the landlord prior to vacating a unit. If the owner refuses to sign after the one year initial term has expired, it may be sent via certified mail.
- B. A copy must be forwarded to the Program Representative in the Leased Housing Department.
- C. Moving papers will not be given to a tenant who has not sent proper notice.
- D. Authorization to move will not be given to a tenant who owes rent or has a notice of termination of tenancy for cause.
- E. A landlord may also ask the tenant to vacate with a written thirty (30) day notice. A copy must also be sent to the Program Representative in the Leased Housing Department.
- F. Moving without notice is a violation of family obligations and will result in termination from the program.
- G. Landlords must inform the Leased Housing Department within three (3) days if a tenant vacates without notice.

X. Leasing to Family Members

- A. Effective June 17, 1998, the Housing Authority may not approve a unit if the owner is a spouse, parent, child, grandparent, grandchild, sister, brother or any interested party of **any**

member of the family except as a reasonable accommodation for a person with a disability.

- B. Families leased prior to June 17, 1998 in a unit owned by an immediate family member have grandfathered rights to continue receiving assistance in that unit until such time as they move to another unit.



SECTION 8-OWNER REQUIREMENTS AND RESPONSIBILITIES

I. Requirements

- A. All property owners in the city of Providence are welcome (although not entitled to any right to participate in the program) to enter into a contract with the PHA and lease with a participant provided that:
1. The unit is eligible
 2. The unit passes HQS inspection
 3. The lease is approvable
 4. The rent is reasonable.
 5. The owner meets the criteria in Section II.

II. Grounds for Disapproval of Owner/Termination due to Breach of Contract

- A. When directed or informed by HUD, the PHA must disapprove an owner for the following reasons.
1. The owner is debarred, suspended or subject to a limited denial of participation under 24 CFR part 24.
 2. The federal government has instituted an administrative or judicial action vs. the owner for violation of Fair Housing Act or other federal equal opportunity requirements.
- B. The PHA will use its administrative discretion to deny an owner for any of the following reasons.
1. The owner has violated obligations under a previous HAP contract.
 2. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
 3. The owner has engaged in drug trafficking.
 4. The owner has a history or practice of non-compliance with HQS for units under any federal housing programs.
 5. The owner has a history or practice of renting units that fail to meet RI State or local housing codes.
 6. The owner has not paid state or local real estate taxes, fines or assessments.
 7. The owner does not refuse (or have 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, PHA employees or owner employees, or (2) the residences by neighbors.

I. Owner's Responsibilities

- A. Owners are permitted and encouraged to screen families on the basis of tenancy histories with respect to:
 - 1. Payment of rent and utility bills
 - 2. Caring for unit and premises
 - 3. Respecting rights of others to the peaceful enjoyment of their housing
 - 4. Drug related criminal activity that is a threat to the life, safety or property of others
 - 5. Compliance with other essential conditions of tenancy when a family wants to lease

- B. Upon request by the owner, the PHA will provide:
 - 1. The family's current and prior address
 - 2. Name and address of landlord at present and prior address
 - 3. Information concerning family, tenancy history, previous damage claims, or drug-trafficking by family members

- C. The owner must abide by all terms of the lease with the tenant.

- D. The owner must abide by all terms of the contract with the PHA.

- E. The owner must keep the unit in the condition required by HQS standards.

- F. The owner must correct violations within the required timeframe stipulated by the PHA Inspector.

- G. The owner must make reasonable accommodations in rules, policies, practices or services if necessary for a person with disabilities to use the housing and must allow the person with a disability to make modifications in accordance with 24 CFR 100.203

SECTION 8.B- RECERTIFICATIONS AND CONTINUED ELIGIBILITY

The PHA is mandated to reexamine the income and family composition of all residents at least once every twelve months to ensure that they meet program criteria. The family, at this time, has the option of remaining in the unit or moving to another location. In either case, the family's income and family composition must be verified and the PHA will make the appropriate adjustments in the tenant rent. The unit must pass an annual inspection at this time if the tenant remains in the unit. In addition, all repayments for damage claims must be current.

I. Annual Recertification

- A. The recertification shall be effective on the first day of the month in which the tenant was originally leased. This is usually the anniversary date of the lease.
- B. Those families with an original lease date during the middle of the month will have a recertification date effective the first day of the following month per federal regulations. (Example: an original lease date of 6/15/13 must be recertified effective 7/1/14).
- C. In order to ensure that adequate time is allowed for interviews, verifications and notification of changes, the recertification process shall commence with tenant interviews not more than 120 days prior to the effective date.
- D. Any family who does not wish to remain in the same unit will follow the procedures set in *Section 9: Moves*.
- E. Families who remain in place will be on a month-to-month lease after the first year.
- F. If the number of bedrooms allotted on the voucher no longer corresponds to the family size, the voucher will be upgraded or downgraded to reflect the occupancy standards as stated in *Section 2: Eligibility Criteria*. This may cause the family to move to a unit within the new rent limits.
 1. In the case of a downgrade, the family may choose to remain in the unit; however, the tenant share will be higher.
 2. In the case of an upgrade, the family may choose to remain in the unit as long as the appropriate number of bedrooms exists. The owners must consent to the addition of the new family member(s) to the lease.

- G. If the unit does not pass inspection and the violations will not be corrected, the family will be required to move to another unit. (See *Section 6: Leasing Policies* and *Section 8: Recertifications and Continued Eligibility*)
- H. The PHA must notify the tenant of any increase in their portion of the rent payment not less than thirty (30) days before the effective date. If, however, the recertification is completed late because of a tenant caused delay, the increase in rent will be retroactive to the anniversary date.
- I. Landlord and tenant are notified of any other changes prior to the effective date.
- J. Any tenant who fails to keep two appointments for recertification or fails to produce requested verifications will be terminated from participation in the program.
- K. Tenants continue to be eligible for continued participation in the program as long as the PHA is contributing to the Housing Assistance Payment.
- L. Families are no longer eligible once the tenant is paying the entire rent with no assistance from the PHA.
 - 1. The family will be notified that the file will remain on hold for six (6) months if the present lease went into effect after 10/2/95.
 - 2. A family whose current lease went into effect prior to 10/2/95 will remain on hold for one (1) year.
 - 3. If the tenant's income decreases or family composition changes during the timeframe listed above so that the PHA would pay a portion of the rent, the file will be reactivated.
 - 4. If after the six month/one year period (whichever is applicable), the tenant would still pay the full amount of rent, the file is withdrawn permanently.
 - 5. If circumstances change in the future, the family may reapply if the waiting list is open.
- M. Changes to the original lease may only be made at the time of the annual recertification.
 - 1. Requests for an increase in the contract rent must be submitted in writing for approval.
 - 2. The Owner/agent must indicate the reason justifying the increase.
 - a. The rent in the certificate program may not increase by more than the annual adjustment factor (AAF) published by HUD.

- b. The gross rent may not exceed the Rent Reasonableness Standards except to allow a disabled person the opportunity to rent an accessible unit.
 - c. If the family has a voucher, the family must be notified of the proposed increase. If they do not wish to pay the increase, they will be issued a voucher to move.
 - d. Effective February 1, 2005, no rent increases are authorized due to limited funding.
3. Any change made concerning the responsible party for paying the utilities must be done in writing. Both the landlord and tenant must be present and in agreement. The change will not be approved if the gross rent will exceed the rent reasonableness standards.
- N. Any forms not signed and returned by the owner within the specified period will result in holding the next HAP check until its receipt.

II. Interim Recertification

An interim recertification is one conducted between scheduled annual recertifications.

- A. An interim recertification may be necessary in one of the following instances.
 - 1. Decrease in Income: Tenants may request an interim reexamination in the event of a reduction or loss of income. Those whose income fluctuates and an average has been taken to project anticipated annual income, may not request an interim re-exam unless the change is significant and permanent.
 - a. The change in rent is effective the first of the following month.
 - b. If the tenant delays in notifying the PHA of a loss/reduction of income, the PHA is not required to make the change retroactively.
 - 2. Increase in income: Tenants are required to report increases in income within ten working days.
 - a. If the tenant fails to report such an increase, the payments will be retroactive to the date when the increase occurred.
 - b. The tenant may also be terminated due to fraud after taking into consideration the amount of money owed and length of time the information was unreported.
 - 3. Change in family composition: Tenants must report all changes in family size within thirty (30) days.
 - 4. If the Head of Household vacates the unit leaving other family members on the lease, the voucher will be assigned to a household member 18 years or older as long as he/she has been on the lease for at least three (3) years.

5. The original Head of Household is not able to return to the household and must reapply to receive a subsidy in the future.
 6. If the Head of Household vacates the unit leaving only minor children as residual family members and the court appoints a guardian, the voucher may be assigned to the guardian provided that he/she meets all eligibility requirements.
 7. In case of the divorce of the Head of Household, if there is no court order and no minor children. The Head of Household will remain with the voucher.
 8. The person becoming Head of Household assumes all responsibilities of the family including but not limited to continued compliance with any repayment agreements or resolving issues concerning unreported income.
- B. Even though the PHA conducts an interim recertification during the year, the annual recertification will take place as scheduled on the anniversary date of the lease.
- C. Unit inspections are not required during an interim recertification.



SECTION 9-MOVES

I. Notification to Owner to Begin Move Procedures

Families are required to remain in a unit for a period of one year. At any time after the first year, the participant may move but must follow the procedures listed below.

- A. The Head of Household must come into the office to pick up a thirty (30) day written notice to send to the landlord. The signed copy must be brought back to the Program Representative
- B. If a participant cannot reach the landlord, the Program Representative will accept a copy of the letter and a signed receipt for certified mail.
- C. If during the first year, there is an emergency situation such as a fire, or severe medical problem, the tenant and landlord may sign an agreement to rescind the lease.
- D. The rescission of the lease is contingent upon the PHA's approval provided that there is good cause. Owners will not be allowed to rescind a lease to "get rid of" a family instead of enforcing compliance with the terms of the lease.
- E. The lease may be mutually rescinded only once in a twelve (12) month period. Contingent on the Director's approval, the second rescind may be approved in the case of a fire or other disaster.
- F. A tenant will not be able to move to another unit if the owner has sent a legal notice for a breach of the lease. Families must be in good standing with their family obligations.
- G. Any family who moves without proper notice or authorization from the Leased Housing Department will be terminated from the program.
- H. After the initial one-year period, the owner may also request that the tenant move. A thirty (30) day written notice must be given to the PHA and tenant.
- I. The PHA reserves the right to deny more than one move per year participant

II Move Procedures

- A. When the Program Representative has a copy of the written notice in the file, he/she will issue a voucher to the family with a term of one hundred and twenty (120) days.
 1. There will be no extensions upon a move except in the following cases:
 - a. A family with a disabled person who needs a 30 day extension as a reasonable accommodation
 - b. A family with a documented medical or personal emergency may be granted a 30 day.

- c. Extensions must be approved by the Department Director
 - d. A family who must move to a lead-safe environment due to a child with an elevated blood level (EBL) will be granted an additional extensions of thirty (30) days as needed.
- B. If the family is on a repayment agreement, they must be paid to date to move to another unit within the jurisdiction.
- C. A family on a repayment agreement who is moving out of the jurisdiction must be paid in full.
- D. If the participant wishes to use the portability option, the procedures listed in *Section 10: Portability* will be followed.
- E. If the participant will continue to live in Providence, the Program Representative will review what to look for in a unit as well as the limits with the Head of Household and issue a Request for Lease Approval.
- F. Upon receipt of the Request for Lease Approval, the Program Representative will review the contract rent, utilities provided, and ensure that it meets the rent reasonableness standards and that the landlord is not barred from participating in the program.
- G. The Program Representative will call the owner/agent to discuss any problems with the requested rental amount and request a Lead Conformance Certificate. In accordance with RI State Law, owner-occupied properties or those built after 1978 are exempt.
- H. Upon receipt of the Lead Conformance Certificate, an inspection will be scheduled with the owner. The tenant is encouraged to attend.
- I. If the unit passes inspection and all parties are in agreement on the rent, the leasing procedures in *Section 6: Leasing Policies* will be followed.
- J. If a family decides not to take the unit prior to signing the lease, the Program Representative will give the Head of Household another Request for Lease Approval provided that the term of the voucher has not expired.

SECTION 10-PORTABILITY

I. General Information

- A. Portability refers to a family's option to relocate from the initial housing authority's jurisdiction with continued rental assistance.
- B. The new location may be anywhere within the United States and its territories provided the receiving housing authority is already administering a tenant-based program.

II. Portability out of Providence

- A. A family may relocate out of Providence providing that they have lived in the city for at least one year
 - 1. While on the Section 8 Program, or
 - 2. During the time spent on the waiting list.
- B. Only first time participants must meet the income criteria in the area to which they would like to relocate.
- C. The family may not owe the PHA **Error! Bookmark not defined.** a balance on any repayment for damage/vacancy claims.
- D. The family must comply with required procedures prior to a move as outlined in *Section 9: Moves*, parts I and II.
- E. The PHA will notify the receiving housing authority to expect the family.
- F. The PHA will mail/fax copies of:
 - 1. most recent 50058
 - 2. updated voucher
 - 3. income verification forms
 - 4. HUD Portability Form #52665
 - 5. Most recent EIV report in a sealed envelope with the confidentiality statement on front.
 - 6. The PHA will advise the tenant how to contact and request assistance from the Receiving Housing Authority.
 - 7. Income verifications must be sent for first time participants since there is no 50058.
- G. Effective October 1, 2004, a family may not transfer to a jurisdiction in which the Payment Standard or gross rent of the unit is higher than the Providence Housing Authority's Payment Standards unless the Receiving HA absorbs the family.
- H. The family must promptly contact the receiving HA and comply with its incoming participant procedures

- I. The Receiving HA will send HUD 52665 and 50058 if administering within 10 days of the HAP execution.
- J. The receiving housing authority must submit initial billing within 60 days following the expiration of the voucher issued by the initial HA. The receiving housing will be required to absorb the participant into its program for failure to notify within the time limit.
- K. Failure to bill or comply with I or J requires absorption into the receiving housing authority's program.

III. Portability into Providence

- A. Families who wish to relocate to Providence are assisted by the Program Representative on Tuesdays (9:00-4:00), and Thursdays from 1:00 to 3:30 p.m. provided that:
 - 1. The PHA has received the required packet from the initial housing authority, or
 - 2. Paperwork hand-delivered by the tenant is not acceptable. It must be faxed or mailed.
- B. The PHA will notify the initial housing authority of the intent to bill for administering as opposed to absorbing.
- C. The bedroom size cited on the voucher will be adjusted (upgraded/downgraded) to comply with the PHA's occupancy standards.
- D. The PHA will conduct a criminal check of all family members 18 years of age or older. In accordance with federal regulations, the move will not be delayed. The family will be housed with the understanding that they may be terminated based on criminal activity.
- E. The Application Specialist will issue a Request for Lease Approval Form and follow standard leasing procedures.
- F. Upon leasing a unit, the Program Representative will contact the initial housing authority within 10 days.
- G. The Initial HA must approve in writing all extensions to the voucher.
- H. If a family's voucher expires, the initial housing authority will be notified and the portability packet returned to them.
- I. The PHA will conduct all necessary inspections and annual/interim recertifications while the family is within its jurisdiction.

- J. The PHA may terminate assistance as outlined in *Section 11: Contract Terminations*.
- K. The PHA will honor any decision by the initial housing authority to terminate assistance.
- L. Families transferring into the PHA's jurisdiction will be screened for owing balances to the PHA and compliance with criminal background requirements.
 - 1. Families who do not meet the criteria will be afforded a conference to determine if there are extenuating circumstances to be considered.
 - 2. If the hearing officer determines that the family is ineligible, the packet will be returned to the initial housing authority.
- M. Families transferring into the PHA programs must meet all requirements outlined in other sections of this plan.

IV. Fees

- A. Based on funding and lease rates, the Department Director will make the determination to bill the initial housing authority for administering assistance to their participant or absorb. Appropriate paperwork will be forwarded to the Accounting Department for:
 - 1. New leases
 - 2. Recertifications
 - 3. Adjustments
 - 4. Terminations
- B. Fees charged for administering are stipulated by HUD and by Memo of Understanding among the housing authorities throughout the State.
- C. Upon a written request from another housing authority, the Department Director may authorize a "swap" by exchanging one PHA participant for one of the other housing authorities thus alleviating the billing process.
- D. The Department Director may, in turn, initiate the request to swap voucher holders with another housing authority.

SECTION 11 - TERMINATION OF PARTICIPATION

I. Owner Termination Of Tenancy

- A. During the term of the lease, the owner may not terminate the tenancy except on the following grounds:
 - 1. Serious or repeated violations of the terms and conditions of the lease
 - 2. Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises
 - 3. Other good cause

- B. Nonpayment by the PHA is not ground for termination of tenancy.

- C. Owners must comply with the provisions concerning the Violence Against Women Act (VAWA) of 2005 which protects victims of domestic violence, dating violence or stalking. Owners may not terminate the victim's tenancy because of domestic/dating violence or stalking. This type of violence may not be considered as a serious, repeated violation of the lease; other good cause or criminal activity of the victim.
 - 1. If the perpetrator of the violence is a member of the victim's household, the PHA may require the individual to leave the household as a condition for the victim and remaining members to continue receiving assistance.
 - 2. The victim must sign a HUD approved certification form stating:
 - a. He/she is a victim of "bona fide" incidents of actual or threatened domestic/dating violence, or stalking as defined in VAWA. It must include the name of the perpetrator and be provided within 14 business days unless there is an approved extension.
 - 3. The victim may also provide one of the following types of verification:
 - a. Local police or court record
 - b. Letter signed by a victim service provider, an attorney or a medical professional from whom the victim asked for assistance. The signer must certify under penalty of perjury that the abuse is a true incidence of domestic/dating violence or stalking and the victim has signed or approved the documentation.
 - 4. Failure to provide certification within the time limits voids the protection provided by VAWA.

- D. The following types of criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control shall be cause for termination:
 - 1. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents
 - 2. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises
 - 3. Any drug-related criminal activity on or near the premises

- E. Other good cause for termination may include but is not limited to:
 - 1. Failure by the family to accept the offer of a new lease or revision
 - 2. A family history of disturbance of neighbors or destruction of property or of living or housekeeping habits resulting in damage to the unit or premises
 - 3. The owners desire to use the unit for personal or family use or for a purpose other than as a residential rental unit
 - 4. A business or economic reason for termination of the tenancy such as sale of the property, renovation of the unit.

- F. During the first year of the lease term, the owner may not terminate the tenancy for other good cause unless the owner is terminating the tenancy because of something the family did or failed to do.

II. Owner Notice

- A. The owner must give the tenant a written notice that specifies the grounds for termination of tenancy in accordance with applicable local, state, and federal laws.

- B. The notice of grounds must be given at or before commencement of the eviction action.

- C. The owner must give the PHA a copy of any owner eviction notice to the tenant.

- D. The owner must give 90 calendar days notice of HAP contract termination in the following cases:
 - 1. If the owner terminates the tenancy for other good cause that is a business or economic reason
 - 2. At expiration of the HAP contract

- E. The owner may only evict the tenant from the unit by instituting a court action and receiving a favorable judgment.

III. PHA Termination of the HAP Contract with the Owner

- A. The PHA may terminate the HAP contract if it determines in accordance with HUD requirements that funding under the ACC is insufficient to support continued assistance for families in the program.
- B. The PHA may terminate the HAP contract for any breaches of contract by the owner as listed in *Section 7: Owner's Requirements and Responsibilities* part II.

IV. PHA Denial of Continued Assistance to the Family

The PHA may at any time deny assistance if any family member:

- A. Violates any family obligation under the program. The family obligations are:
 1. Supplying all required information requested by the PHA
 2. Disclosing and verifying Social Security Numbers
 3. Must provide true and complete information
 4. The family is responsible for certain HQS violation caused by the family
 5. Must allow the PHA to inspect the unit at reasonable times and after reasonable (48 hour) notice.
 6. May not commit any serious repeated violation of the lease
 7. Must notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner
 8. Must promptly give the PHA a copy of any owner eviction notice.
 9. Must use the unit for residence by the family and as the family's only residence.
 10. Must promptly inform and request the PHA's approval to add any other family members as an occupant of the unit.
 11. Must promptly notify the PHA if a family member no longer resides in the unit.
 12. Must not sublease or let the unit.
 13. Must not assign the lease or transfer the unit.
 14. Must not own or have any interest in the unit.
 15. Must supply any information or certification requested by the PHA to verify occupancy.
 16. Must promptly notify the PHA of absences from the unit of more than 30 days.
 17. Must request approval from the PHA to add foster children to the lease.

18. Must not commit fraud, bribery or any other corrupt or criminal act in connection with the program.
 19. May not engage in drug related criminal activity or violent criminal activity.
 20. May not receive assistance while receiving another housing subsidy for the same unit or a different unit under any duplicative Federal, State or local housing assistance program.
- B. Has been evicted from public housing within the past 5 years.
- C. Has ever been terminated assistance under the certificate or voucher program by any housing authority.
- D. Commits drug related criminal activity or violent criminal activity.
1. The PHA may not deny or terminate assistance for such use or possession by a family member, if the family member can demonstrate that he or she:
 - a. Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and
 - b. Is recovering, or has recovered from, such addiction and does not currently use or possess controlled substances. The PHA may require a family member who has engaged in the illegal use of drugs to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.
- E. If any member of the household has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, this termination is immediate and permanent.
- F. Commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- G. Owes rent or other amounts to the PHA or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act.

- H. Has not reimbursed any housing authority for amounts paid to an owner under a HAP contract for rent, damages to a unit, or other amounts owed by the family under the lease.
- I. Is participating in the FSS program and fails to comply without good cause with the family's FSS contract of participation.
- J. Has engaged in or threatened abusive or violent behavior towards PHA personnel.
- K. Has failed to sign consent forms for obtaining information.
- L. Refusal to submit evidence of citizenship or eligible immigration status.
- M. Has failed to provide and/or pay for any utilities that owner is not required to pay for but which are to be paid by the tenant.
- N. Has failed to provide any appliance that owner is not required to supply but which are to be provided by the tenant
- O. Has failed to repair or reimburse owner for any damage (other than normal wear and tear) caused by the tenant, his/her family and/or guests which caused a breach in HQS.

V. Unreported Income Notification

- A. If a tenant is identified with possible unreported income, the Program Representative will calculate the amount owed comparing the EIV, third party verifications and other pertinent applicable information.
- B. A supervisor will schedule an appointment with the participant to review the discrepancies.
1. If the participant does not keep the appointment, he/she will receive a letter of termination and follow the procedures listed below.
 2. If the discrepancy is resolved by verifications such as full-time student status, sporadic income, etc., no further action is necessary.
 3. If the participant does not dispute the unreported income, they will have until the last day of the following month to pay in full. If the tenant fails to do so, he/she will receive a letter of termination and follow the procedures listed below.
 3. If the participant disputes the findings and the issue is not resolved, he/she will receive a letter of termination and follow the procedures listed below.
 4. The participant may also be granted ten (10) days to bring any additional pertinent information as agreed to by the supervisor.

VI. Notification of Termination of Family's Assistance

- A. The PHA will send all families whose assistance will be terminated a written notice stating:
1. The specific reason for the determination
 2. Their right to an informal hearing
 3. The procedure to request one.
 4. The request must be made in writing to the Department Director or his/her designee.
- B. The request must be received within 10 days of the date of the letter of termination or the participant forfeits his/her right to a hearing.

VII. The Informal Hearing

- A. The Executive Director or his designated representative will conduct all informal hearings. The designated hearing officer will not be any person (or his/her subordinate) who made the decision to terminate assistance or deny eligibility.
- B. Informal hearing is not required for discretionary administrative policies.

- C. Applicant may present written or oral objections to the decision.
- D. Applicant may also bring witnesses and legal counsel
- E. Consideration will be given to a family member with an addiction who is recovering and submits evidence of participation in, or successful completion of a treatment program.
- F. The termination of assistance or denial of eligibility will be upheld if the participant fails to appear for the hearing.
- G. The Hearing Officer will notify the family in writing of the outcome of the informal hearing within 10 days unless he/she has authorized additional time for the participant to produce further documentation. In that case, the Hearing Officer will render a decision within 10 days of receipt of all information.
- H. Participants are not entitled to a formal grievance hearing as are applicants.



SECTION 12- CLAIMS

I. GENERAL INFORMATION

- A. Claims for damages, unpaid rent and/or vacancy losses may be submitted only for contracts, which were in effect prior to October 2, 1995.
- B. After October 2, 1995, owners were allowed to charge a full security deposit in accordance with RI State Law; therefore, the PHA no longer pays for such claims on behalf of an assisted family.
- C. An owner may collect amounts under each section listed below; however, the total from all sections may not exceed:
 - 1. The lesser of the actual amount owed or the maximum of two (2) months' contract rent less any security deposit for the Certificate Program
 - 2. The lesser of the actual amount owed or the maximum of one (1) month's contract rent less any security deposit for the Voucher Program

II. DAMAGE CLAIMS

- A. Upon vacate of the tenant, the owner must inform the PHA within five (5) days to schedule an inspection of the unit. The PHA reserves the right to deny the claim for failure to notify within this time frame.
- B. All claims with receipts for completed work must be submitted within sixty (60) days of the vacate date.
- C. If the security deposit is insufficient to reimburse the owner for the amounts, which the family owes under the lease, the owner may request reimbursement from the PHA up to the limits for each program.
- D. Upon notification of the landlord, an inspection will be scheduled within five (5) days. If possible, the tenant should also be present.
- E. The Program Representative will review the owner's claims for damages. Claims should be for other than normal wear and tear and will be compared with the internal audit records of the unit such as the initial and most recent inspection reports.
- F. All claims for damages must be supported by:

1. The actual bills for repairs, materials, labor and a copy of the canceled checks showing payment;
 2. Estimates for repairs or replacement of items are not acceptable;
 3. Bills from individuals providing labor must include their name, address and phone number;
 4. The owner may not bill himself for labor since that is not considered by the HA to be an actual cost. Personnel of the landlord who make repairs may be included.
- G. Upon receipt of a damage claim, the PHA will notify the tenant that such a claim is pending.
- H. The notification will state the amount and type of claim as well as advise participants of their right to dispute the claim within ten (10) working days.
- I. If the claim is disputed, the PHA will set up an informal hearing. The owner and family will be notified.
- J. Failure to attend this hearing by either party will result in the PHA making the decision based on reports submitted. The meeting will not be rescheduled.
- K. The PHA will submit the written determination to both parties.
- L. Any amount owed by the tenant to the owner will be deducted first from the security deposit, which the owner could have collected. The balance will be calculated according to federal regulations:
1. The lesser of the actual amount owed or the maximum of two (2) months' contract rent less any security deposit for the Certificate Program.
 2. The lesser of the actual amount owed or the maximum of one (1) month's contract rent less any security deposit for the Voucher Program.
- M. The cost of filing for eviction is not considered damage to the unit and may not be included in the claim.

I. Unpaid Rent Claims

- A. If the security deposit is insufficient (or was never collected) to reimburse the owner for any unpaid rent, the owner may claim reimbursement from the PHA not to exceed the lesser of: the amount owed to the owner or two (2) months contract rent less any deposit collected

- B. No reimbursement may be claimed for unpaid rent for the period after a family vacates.

II. Vacancy Loss Claim

- A. If the family moves from the unit in violation of the lease (without proper notice) the owner shall receive payment for the remaining part of the month during which the unit remains vacant.
- B. If the unit continues to remain vacant, the owner will receive from the PHA in the amount of eighty percent (80%) for a period not exceeding one additional month or the expiration of the lease whichever comes first.
- C. If the owner evicts the family, the owner shall not be entitled to any payment under this section unless the PHA determines that the owner complied with all requirements of the contract and all applicable State and local laws.
- D. The owner is not entitled to any payment for the vacated unit to the extent that he/she is entitled to payment from other sources.

III. Repayment to the PHA for Claims and Unreported income

- A. Once the owner is paid for a claim, the PHA will inform the family of their responsibility to reimburse the PHA for payment on their behalf.
- B. The PHA will notify the participant that the family cannot move or transfer to another location unless current in payments. They may not move outside the jurisdiction unless the balance is paid in full.
 - 1. In case of an emergency such as fire, this requirement may be waived with approval of the Department Director.
- C. The following schedule will be adhered to when determining length of time for repayment. Family owes the PHA:
 - Less than \$500.00 – maximum of six (6) months to repay
 - \$501.00- 1,000.00 – maximum of twelve (12) months
 - \$1,001.00 to \$4,999.00 – maximum of twenty-four (24) months
 - \$5000.00 – maximum of three (3) years
 - More than \$5000.00 – maximum of five (5) years.
- D. Failure to stay current with payments will result in termination from the program.

SECTION 13-FRAUD AND PROGRAM ABUSE**I. Verification of Fraud or Program Abuse**

- A. The Leased Housing Department will note any discrepancies/information received from any source – including anonymous calls.
 - 1. In some cases especially those involving unreported income, the Program Representative will send any pertinent verifications to the third party.
 - 2. Other types of fraud such as additional family members, drug activity, etc. may be reported to the Fraud Investigator for follow-up.
- B. Upon receipt of documentation from a third party or the Fraud Investigator, the Program Representative will review the file with the Senior Program Representative to determine if additional information is needed.

II. Consequences for Fraud/Abuse by the Family

- A. If the supervisor and Program Representative conclude that there is sufficient documentation which demonstrates a single act or a pattern of actions constituting false statement, omission or concealment of a substantive fact made with intent to deceive or mislead, the family will receive a notice of termination.
- B. The family will have the opportunity to request an informal hearing.
- C. The Hearing Officer may decide to allow the family to remain on the program if they provide additional information which would clarify any misunderstanding concerning the fraud/abuse.
- D. If the PHA reinstates the family (prior to June 2005) but they do owe the PHA money, the family must enter into a repayment agreement. Terms of the agreement will be prescribed by the PHA.
- E. Misrepresentation of income found prior to July 1, 2005 may be repaid to the PHA according to the following schedule:

Owing \$499. or under – maximum of six (6) months

\$500 - \$1,000 – maximum of twelve (12) months

\$1,001- \$4,999-maximum of twenty-four (24) months

\$5,000 – 9,999 – maximum of thirty-six (36) months

\$10,000 or more – maximum of sixty (60) months.

- F. If a family is terminated from the program the PHA may also proceed with litigation and/or criminal charges to recover funds.
- G. Through June 30, 2005, families will have an amnesty period during which they may notify the office by certified mail of any unreported income. They may enter into a repayment agreement with the PHA.
- H. Effective July 1, 2005, families found to have misrepresented their income will be terminated from the program unless the entire balance is paid in full prior to the termination date. They will be afforded the opportunity to request an informal conference.
- I. In the case of a second offense, the Head of Household has the opportunity to a hearing to dispute the findings. If the findings are true, the participant is not able to remain on the program and is still liable to reimburse the PHA.
- J. The PHA reserves the right to forward the case to the appropriate agency for prosecution.

III. Consequences for Fraud/Abuse by the Owner

- A. If the supervisor and Program Representative conclude that there is sufficient documentation which demonstrates a single act or a pattern of actions constituting false statement, omission or concealment of a substantive fact made with intent to deceive or mislead, the owner will receive a contract cancellation notice.
- B. The PHA will issue the family a voucher to move.
- C. The PHA may proceed with litigation to recover funds from the owner.
- D. If the owner has another property/properties on the program, the PHA may also recoup payments by withholding those payments.
- E. The PHA will not allow the owner to participate in the program in the future.
- F. The PHA reserves the right to forward the case to the appropriate agency for prosecution.

SECTION 14-MODERATE REHABILITATION PROGRAM

The Moderate Rehabilitation Program began in 1982. It differs from the Certificate and Voucher Programs because it is unit based as opposed to tenant based rental assistance. Participants in the Moderate Rehabilitation Program cannot transfer their assistance to another unit. If the original family vacates, the next tenants will be considered for assistance based on the eligibility criteria of the Certificate Program.

The PHA entered into a fifteen (15) year Housing Assistance Payment Contract with each approved owner after he/she rehabilitated the unit(s) from substandard condition to one above the Housing Quality Standards (HQS).

Once the initial contract expires, it may be renewed on a one (1) year basis. Vouchers may be issued to tenants of owners who choose to opt-out of participation in the program.

A. PHA Responsibilities

1. The PHA will refer applicants from the Section 8 Waiting List as vacancies occur in the units covered by the fifteen (15) year contract.
 - a. If a vacant unit cannot be filled from the waiting list within a thirty (30) day period, the owner may select a family who is not on the list provided that the family meets the PHA's eligibility criteria.
2. The PHA must brief/orient these participants individually. The families are given a Statement of Family Responsibility in lieu of a certificate/voucher) which explains their obligations.
3. The PHA conducts inspections upon initial occupancy, annual recertification and as needed throughout the year to ensure compliance with HQS. The inspector must also advise the owner if it appears that the unit(s) is deteriorating to a level below the standard to which the unit(s) was rehabilitated.
4. As in the Certificate Program, the PHA is responsible to conduct annual recertifications. Annual and interim rent adjustments are made based on changes in the participant's income per federal regulations.
5. The PHA will determine any rent increases per federal guidelines. Upon contract renewal rents are currently the lower of:
 - a. Fair Market Rent (FMR) less the utility allowance. The FMR for the Moderate Rehabilitation Program is 120% of the FMR in the Voucher Program.
 - b. The current rent multiplied by the OCAF (Operating Costs Adjustment Factor set by HUD).
 - c. Rent Reasonableness
6. The PHA is responsible to calculate any applicable claims to which the owner may be entitled as detailed in *Section 13: Claims*.

7. Upon expiration of the contract, the PHA will follow procedures as outlined in notices transmitted by HUD.



Section 15

PROJECT-BASED VOUCHERS

INTRODUCTION

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

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

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

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

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

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

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

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

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

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

PART I: GENERAL REQUIREMENTS

15-I.A. OVERVIEW [24 CFR 983.5]

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

PHA Policy

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

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

Additional Project-Based Units [FR Notice 1/18/17]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302); or
- Are specifically made available to house families that are comprised of or include a veteran; or
 - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403; or
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.
 - For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

PHA Policy

The PHA may set aside units above the 20 percent program limit.

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

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

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
 - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
 - Was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)
 - Received assistance under the Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

PHA Policy

The PHA may project-base some of the above unit types on an as needed basis.

15-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

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

PHA Policy

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

For the Open Doors development, the PHA will abide by screening criteria in the owner's Tenant Selection Plan with regard to criminal activity and suitability rather than PHA screening criteria in Section 3. However, the family must still be eligible to receive assistance under HUD regulations and the PHA will assure that the family is PBV program eligible.

The PHA may choose to allow for different screening criteria for individual developments if necessary to serve a particular special population, so long as those criteria are consistent with HUD regulations.

15-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

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

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

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

15-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

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

PART II: PBV OWNER PROPOSALS

15-II.A. OVERVIEW

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

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

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

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

Units Selected Non-Competitively [FR Notice 1/18/17]

For certain public housing projects where the PHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the PHA may select a project without following one of the two processes above.

PHA Policy

The PHA may project base developments owned by the PHA as described above and in accordance with HUD regulations.

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

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

PHA Policy

The PHA may choose to advertise a request for proposals for (1) Rehabilitated and Newly Constructed Units, (2) Existing Housing Units, or both (1) and (2).

PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in local newspapers and/or websites and electronic publications with wide circulation.

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

The PHA will publish its advertisement in local newspapers at least one day and will remain on the website for the entire period that the RFP is open. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Proposals will be due in the PHA office by close of business 30 calendar days (or more if indicated on the advertisement) from the date of the newspaper publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

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

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

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

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

- Other criteria that the PHA deems necessary to align with the need in the community for particular types of units or to serve particular populations, or to address other housing policy priorities of the Authority.

PHA Requests for Proposals for Existing Housing Units

The PHA will advertise its request for proposals (RFP) for existing housing in local newspapers and trade journals.

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

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

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

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

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

- Other criteria that the PHA deems necessary to align with the need in the community for particular types of units or to serve particular populations, or to address other housing policy priorities of the Authority.

The PHA may consider the Extent to which units are occupied by families that are eligible to participate in the PBV program.

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

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

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

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

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

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

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

PHA-Owned Units [24 CFR 983.51(e), 983.59, Notice PIH 2015-05, and FR Notice 1/18/17]

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

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

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

PHA Policy

The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. If the proposal for PHA-owned housing is selected, the PHA will use another local Housing Authority or another HUD-approved public or private entity to review the PHA selection and to administer the PBV program. The PHA will obtain HUD approval for the use of the other local Housing Authority or other HUD-approved public or private entity prior to selecting the proposal for PHA-owned housing.

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

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

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

PHA Policy

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected that their proposal was not chosen. The name of any selected owner(s) will be posted on the PHA's website.

The PHA will make available its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal to the extent required by Rhode Island law. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner and may request that owners identify any such information when they submit a proposal.

15-II.C. HOUSING TYPE [24 CFR 983.52]

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

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

15-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

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

Subsidized Housing [24 CFR 983.54]

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

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

15-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]

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

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

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

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

15-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56]

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

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

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

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

Supportive Services

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

PHA Policy

The PHA will allow for excepted units for:

- Units that are exclusively for Elderly families

- projects that are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates
 - For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].
- Units that are for households eligible for supportive services available to all families receiving PBV assistance in the project; The Providence Housing Authority will consider exception unit for developments that provide the following types of services as supportive services:
- Developments that offer Comprehensive Life Skill Training and Support such as:
 - Housekeeping/Homemaking, Nutrition, Budgeting, Parenting Skills, active case management, as well as referrals to local community agencies that offer additional services required by the participating member or family. The training and support must be provided by the development or a partner with a signed Memorandum of Understanding.
- Developments that offer Care to Elderly and/or Disabled individuals such as:
 - Mental Health Services and/or Case Management along with supervised taking of medications, and transportation provided by the development or a partner with a signed Memorandum of Understanding.
- Developments that offer on-site Treatment and case management for drug and/or alcohol rehabilitation in the case of current abusers.
- Developments that offer Educational and Job Training Opportunities such as:
 - On-site Child care, GED or ESL classes, assistance obtaining citizenship or citizenship classes, Computer classes/trainings, Work skills development and job training, or College Level or similar classes. The training and support must be provided by the development or a partner with a signed Memorandum of Understanding.
- Developments that offer a Self-Sufficiency and Homeownership Programs to its residents that are paid for by the development or a partner with a signed Memorandum of Understanding.
- If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, any supportive services as defined in the PHA administrative plan, and successfully completes the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.
- If the family becomes ineligible for the supportive service during their tenancy (for reasons other than successfully completing the supportive service objective), the unit will no longer be considered an excepted unit. If the family is ineligible for all supportive services that are made available at the project, the PHA may do any of the following:

- Reduce the number of excepted units
- Substitute the excepted unit for a non-excepted unit
- Temporarily remove the unit from the PBV HAP contract and provide the family with tenant-based assistance.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

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

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP under which the project was selected or the PHA selected the project without competition, the unit met at least one of the two following conditions:
 - The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 202), Housing for Persons with disabilities (Section 811), the Rental Supplement program,
 - The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

PHA Policy

The PHA may consider offering PBV assistance to project not subject to a Project Cap.

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

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

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

PHA Policy:

The PHA may provide assistance for excepted units.

15-II.G. SITE SELECTION STANDARDS

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

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

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

PHA Policy

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 25 percent or less.

However, the PHA will grant exceptions to the 25 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 25 percent, such as sites in:

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

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

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization,;

- An area in which state, local or federal dollars have been invested towards the goals of deconcentrating poverty and expanding housing and economic opportunities.

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

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

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

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

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

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

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

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

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

15-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

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

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

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

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

PART III: DWELLING UNITS

15-III.A. OVERVIEW

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

15-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

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

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

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

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

15-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

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

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

15-III.D. INSPECTING UNITS

NOTE: Throughout the Project Based Voucher section of the Admin Plan, references are made to HQS as the required inspection standards for Project Based Vouchers, reflecting the current regulations at the time the document is adopted. However, some “PHA Policy” sections mention “HQS or UPCS-V Standards”, reflecting the PHA’s expectation that HUD will be allowing and encouraging the use of UPCS-V inspections in the future. As such, whenever HQS is referenced in this document, it is intended to mean “HQS and/or any other HUD-approved Inspection standard.”

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

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

Pre-HAP Contract Inspections [24 CFR 983.103(b); FR Notice 1/18/17]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

PHA Policy

The PHA will not enter into a PBV HAP contract until all units that will be under contract fully comply with HQS or UPCS-V Standards.

Turnover Inspections [24 CFR 983.103(c)]

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

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

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

PHA Policy

The PHA will inspect on a biennial basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS or UPCS-V Standards.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

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

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

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

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

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

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

15-IV.A. OVERVIEW [24 CFR 983.151]

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

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

15-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

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

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

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

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

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

Execution of the Agreement [24 CFR 983.153]

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

PHA Policy

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

15-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

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

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

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

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

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

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

15-IV.D. COMPLETION OF HOUSING

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

Evidence of Completion [24 CFR 983.155(b)]

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

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

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

PHA Policy

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

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

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

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

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

15-V.A. OVERVIEW

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

15-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

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

Execution of the HAP Contract [24 CFR 983.204]

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

PHA Policy

For existing housing, the HAP contract will be executed within 30 business days of the PHA determining that all units pass HQS or UPCS-V Standards.

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

Term of HAP Contract [24 CFR 983.205; FR Notice 1/18/17]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

PHA Policy

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

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

PHA Policy

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

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

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

The owner's record of cooperation with the PHA;

The owner's successful management of the property

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

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

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

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

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

Termination by Owner [24 CFR 983.205(d)]

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

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

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

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

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

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

PHA Policy

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS or UPCS-V in accordance with the policies used in the tenant-based voucher program.

15-V.C. AMENDMENTS TO THE HAP CONTRACT

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

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

Addition of Contract Units [FR Notice 1/18/17]

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

PHA Policy

The PHA may add contract units to the HAP contract on an as needed basis.

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

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

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

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

15-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]

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

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

15-V.F. ADDITIONAL HAP REQUIREMENTS

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

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

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

PHA Policy

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

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

PHA Policy

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

15-VI.A. OVERVIEW

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

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

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

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

PHA Policy

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Section 3.

For the Open Doors development, the PHA will abide by screening criteria in the owner's Tenant Selection Plan with regard to criminal activity and suitability rather than PHA screening criteria in Section 3. However, the family must still be eligible to receive assistance under HUD regulations and the PHA will assure that the family is PBV program eligible.

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

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

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

15-VLC. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

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

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

PHA Policy

Effective March 2, 2020, the PHA will manage one waitlist for any family housing with the list organized by bedroom type. The PHA will combine any existing PBV waiting lists (not including VASH) into a single waitlist based on the time and date of application and will utilize this for all existing and new family housing PBV units going forward. In the case where a list was established by lottery, the PHA will give the time and date of the deadline to submit applications as the time and date for all applicants chosen from that lottery, and sort all applicants with that time and date by lottery number. If the PHA contracts with any owner for elderly/disabled only housing, it will create and manage a separate elderly/disabled only waitlist, organized by bedroom type. When establishing any new such PBV waiting list, PHA will notify all existing participants on its HCV and public housing waiting lists of the opportunity to apply.

Effective with the establishment of one combined family waiting list for PBVs (and if established, a single elderly/disabled list), applicants will only be able to apply online. The PHA will modify this requirement as needed for applicants who require a reasonable accommodation or are Limited English Proficiency (LEP) individuals, following the procedures outlined in our Reasonable Accommodation and LEP policies.

The PBV waiting list(s) will not be part of the Centralized Wait List ("CWL") system which is used for HCV applications, and the PHA will administer any PBV lists. The PHA will purge these lists once per year using the same processes utilized for the HCV waiting list.

15-VLD. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list. To the extent allowed by HUD regulation, PHA may allow an owner to maintain their own PBV waiting list, while requiring that PHA regularly receive updated copies of the list. However, prior to leasing to a family, PHA will still have to determine eligibility and pull from the list.

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

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

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

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

Refer to Section 15.VII.C, Moves, for information on moves may be required for families who are occupying an accessible unit when it does not require those features.

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

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

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

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

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

PHA Policy

The PHA will provide a selection preference when required by the regulation, including for excepted units (e.g., eligible in-place families, veterans, elderly families or units with supportive services, or mobility impaired persons for accessible units). For any developments with supportive services, PHA will provide a preference for the criteria to qualify for those services.

The PHA will also provide an absolute preference for individuals that were formerly incarcerated to the Open Doors Development. PHA may consult with Open Doors Program to determine the eligibility of individual applicants for the preference based on the definition of “formerly incarcerated” indicated in their PHA approved Tenant Selection Plan.

15-VI.E. OFFER OF PBV ASSISTANCE

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

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

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

PHA Policy

The PHA has adopted a "two offer plan" for offering units to applicants.

The first suitable unit offered will be a unit which was vacant the longest at the time of the assignment.

If the first offer of a suitable unit is refused, the applicant will be offered a second suitable unit. If the refusal of the first suitable unit offered was due to its location, the second unit offered will be:

- In a different project than the first, and
- In the next project with a vacancy.

If the applicant does not accept the second offer of a suitable unit, the applicant's name will be withdrawn from the applicable PBV waiting list and the applicant will be required to reapply for PBV assistance.

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

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

PHA Policy

Rejection of a family by one PBV owner will not result in a family being removed from the list. A family will only be removed from the PBV list if all PBV owners who utilize that list have rejected the family. PHA will not refer a family that has already been rejected by an owner to that owner again if the development has another vacancy.

Acceptance of Offer [24 CFR 983.252]***Family Briefing***

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

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

15-VLF. OWNER SELECTION OF TENANTS

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

Leasing [24 CFR 983.253(a)]

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

Filling Vacancies [24 CFR 983.254(a)]

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

PHA Policy

The owner must notify the PHA in writing (mail, fax, or e-mail) within 5 days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 30 business days of receiving such notice from the owner.

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

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

PHA Policy

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the PHA's notice. The PHA may entertain a request by the owner not to remove vacant units from the Contract if the owner can demonstrate that circumstances prevented the unit from being rented but that the Owner will be able to rent it in the near future.

15-VI.G. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

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

PHA Policy

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

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

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

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required information, at the time of the turnover inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc. The PHA will require a Tenant Selection Plan from owners that includes the criteria owners will use in screening prospective tenants. This plan will be an addendum to the HAP contract. Changes to the Plan will require approval in writing from the PHA.

Owner Responsibility

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

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

PART VII: OCCUPANCY

15-VII.A. OVERVIEW

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

15-VII.B. LEASE [24 CFR 983.256]

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

Form of Lease [24 CFR 983.256(b)]

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

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

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

PHA Policy

The PHA may review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

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

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

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

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

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

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

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

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

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

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

Owner Termination of Tenancy [24 CFR 983.257]

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

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

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

Continuation of Housing Assistance Payments [24 CFR 982.258]

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

PHA Policy

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

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

PHA Policy

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate that is in accordance with Rhode Island law.

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

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

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

15-VII.C. MOVES

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

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

PHA Policy

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

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

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

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

PHA Policy

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

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

Family Right to Move [24 CFR 983.261]

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

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

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

Emergency Transfers under VAWA [Notice PIH 2017-08]

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

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

PHA Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first offer the participant the option of a Housing Choice Voucher. If the participant prefers not to transfer to the HCV program, PHA will seek to place the participant in another PBV unit in the same development, or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If the tenant has been residing in the PBV unit for more than one year and no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to tenant-based rental assistance (HCV). Such a decision will be made by the PHA based on the availability of tenant-based vouchers. Such families must be selected from the waiting list for the applicable program.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

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

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

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

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

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

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

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

PHA Policy

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

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

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

PART VIII: DETERMINING RENT TO OWNER

15-VIII.A. OVERVIEW

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

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

15-VIII.B. RENT LIMITS [24 CFR 983.301]

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

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

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

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

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

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

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

Definitions

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

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

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

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

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

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

PHA Policy

The PHA will not elect, within the HAP contract, to establish a rent floor.

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

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

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

PHA Policy

Upon written request by the owner, the PHA will consider using an FMR or utility allowances that are not the most recent if they were in effect during the 30-day period before the start date of the HAP or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances that are not the most recent if they were in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

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

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

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective dates of both the SAFMR designation and the PHA administrative plan policy, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

PHA Policy

The PHA may designate exception payments standards to certain areas of our jurisdiction (SAFMRs) based on the zip codes and documented need for higher Payment Standards.

Should a PBV project be located in an area where the PHA institutes a SAFMR the SAFMR will also apply to the rents set for the development as long as the SAFMR exception Payment Standard is in effect. Should the PHA later change this policy, or remove the SAFMR Payment Standard, the PHA will notify the development that at the next anniversary date of the contract the SAFMR exception Payment Standard will no longer be used to determine their rents.

Redetermination of Rent [24 CFR 983.302]

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

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

PHA Policy

An owner's request for a rent increase must be submitted to the PHA at least 90 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing and an explanation of the need for an increase. The PHA may adjust or reduce the requested rent increase based on the funding availability and other regulatory and financial factors.

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

Rent Decrease

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

Notice of Rent Change

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

PHA Policy

The PHA will provide the owner with at least 10 days written notice of any change in the amount of rent to owner.

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

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

15-VIII.C. REASONABLE RENT [24 CFR 983.303]

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

When Rent Reasonable Determinations Are Required

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

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

How to Determine Reasonable Rent

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

Comparability Analysis

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

PHA-Owned Units

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

Owner Certification of Reasonable Rent

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

15-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

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

Other Subsidy [24 CFR 983.304]

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

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

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

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

Combining Subsidy

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

Rent Control [24 CFR 983.305]

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

PART IX: PAYMENTS TO OWNER

15-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

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

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

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

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

15-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

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

PHA Policy

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

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

The PHA will not provide for vacancy payments unless otherwise indicated in the HAP Contract. If indicated in the HAP contract, the owner must follow the PHA's Vacancy Claim Guide for submitting vacancy claims

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Subsection VI.F. of this section regarding notification of and filling vacancies.

15-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

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

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

Tenant and PHA Responsibilities

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

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

Utility Reimbursements

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

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

PHA Policy

The PHA will make utility reimbursements to the family.

15-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**Meals and Supportive Services**

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

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

Other Charges by Owner

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

- a. "Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
- b. In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in Section 416 (1) of the Social Security Act), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time".

Section 102 (7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 (7) defines developmental disability in functional terms as

"Severe chronic disability that: (a) is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is manifested before the person attains age 22; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in 3 or more of the following areas of major life activity: (1) self-care, (2) receptive and responsive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and (8) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

disaster relief laws.

Drug related criminal activity

The illegal manufacture, sale, distribution or use of a drug or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

E

Elderly Family

A family consisting of one (1) or more persons. The Head of Household or spouse, however, must be at least 62 years of age or a disabled or handicapped person.

Extremely Low Income Limits

Very low income families whose incomes do not exceed the higher of the Federal poverty level or 30 percent of Area Median Income. (effective July 2014)

F

Family

Two or more persons sharing residency whose income and resources are available to meet the family's needs and who are either related by blood, marriage, or operation of law. In addition, family includes an elderly family; the remaining (residual) member of a participating family; and a displaced person.

Foster Child

A child under the age of 18 years of age who has been placed in the household by a public or nonprofit child placing agency for care and maintenance. Income received for his/her care is not counted in the family's annual income and there is no dependent deduction for him/her. The child is counted, however, when determining bedroom size.

Full Time Student

A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree. A full-time student is one carrying a full-time subject load (as defined by the institution with a degree or certificate program.

G

Guest

A person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

H

Handicapped Assistance Expense

Reasonable expenses for attendant care and auxiliary apparatus for a handicapped or disabled family member that are anticipated during the period for which annual income is computed and that are necessary to enable a family member (including the handicapped or disabled member) to be *employed*, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Handicapped Person

A person having a physical or mental impairment which (1) is expected to be of long, continued and indefinite duration, (2) substantially impedes his/her ability to live independently, and (3) is of such a nature that such ability could be improved by more suitable housing conditions.

Head of Household

The "Head of Household" is the family member who is held responsible and accountable for the family.

HUD.

The U.S. Department of Housing and Urban Development.

L

Live-In-Aide

A person who resides with an elderly, disabled, or handicapped person and is determined by the PHA to be essential to the care and well-being of the person. He/she is not obligated to support the person and would not be living in the unit except to provide necessary supportive services. Relatives are not automatically excluded from being live-in Aides but must meet the requirements as stated above.

Lower Income Family

A family whose annual income is between 50% and 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families. The limits are published by HUD.

M

Medical Expenses

Those medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed and that are not covered by insurance. A consideration for elderly families only. (See *Section 4: Rent Calculation*).

Minimum Rent

Effective 4-1-96, the minimum Total Tenant Payment is \$25.00 for all participants

Monthly Adjusted Income

"Monthly Adjusted Income" is one-twelfth of adjusted income.

Monthly Income

"Monthly Income" is one-twelfth of annual income.

N

Net Family Assets

"Net Family" is the value of equity in real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian Trust land. The value of necessary items of personal property such as furniture and automobiles shall be excluded. (In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust.) Any income distributed from the trust fund shall be counted when determining annual income. In determining net family assets, PHA shall include the value of any assets disposed of by an applicant or Resident 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, less the cost incurred by disposing of the asset, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or Resident received important consideration not measurable in dollar terms.

P

Payment Standard

The payment standard is used to calculate the Housing Authority's contribution on behalf of a voucher holder. This standard must be not less than 90% of the Fair Market Rent based on bedroom size.

PHA

The Providence Housing Authority.

S

Single Person

A non-handicapped or disabled person living or intending to live alone, between the ages of 18 to 61.

Spouse

The wife or husband of the Head of Household.

T

Tenant rent

The amount payable monthly by the family as rent to the landlord. Where all utilities (except telephone) and other essential housing services are supplied by landlord, Tenant rent equals Total Tenant Payment. Where some or all utilities (except telephone) and other essential housing services are not supplied by the landlord and the cost thereof is not included in the amount paid as rent, Tenant rent equals Gross Family Contribution less the utility allowance.

Total Tenant Payment

The monthly amount calculated under Federally Regulation 24 CFR 913.107. does not include deduction of the utility allowance. The payment shall be the highest of the following, rounded to the nearest dollar:

- a. 30 percent of monthly-adjusted income;
- b. 10 percent of monthly income; or
- c. \$25.00 minimum

**Utilities**

Water, electricity, gas, other heating, and refrigeration. Telephone and cable service are not included as a utility.

Utility Allowance

For all utilities (except telephone and cable) which are purchased directly by tenants from the utilities suppliers, the HUD establishes an allowance equal to the estimate of the monthly cost of a reasonable consumption of such utilities for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment.

Utility Reimbursement

The amount, if any, by which the monthly utility allowance for the unit; if applicable exceeds the Total Tenant Payment for the family occupying the unit.



Very Low-Income Family

A "Very Low-Income Family" is a lower income family whose annual income does not exceed 50 percent of the median income for the area as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.