

EXHIBIT 2

not be added to the program's waiting list. The following criteria shall be used to determine preliminary ineligibility.

An applicant is deemed preliminarily ineligible and shall be rejected and not placed on the HACA HCV waiting list if currently housed in this same program and listed as the head of household or co-head of household.

If the head of household, spouse, or co-head in the applicant family owes a move-out balance or debt to HACA, the family will be notified in writing that they owe this debt. The written notification will inform them that they have been placed on the waiting list and the outstanding debt must be paid in full before they are eligible to receive any form of housing assistance. The notice will also explain how they may establish a repayment agreement and begin making payments. This notice will be sent in all cases in which the debt is not barred by a statute of limitations. There is a four-year statute of limitation, which ends the latter of:

- Four years from the date the debt became delinquent, or
- Four years from the date the final payment would have been due if a repayment agreement was signed by the former tenant.

HACA complies with all Fair Housing laws. Applicants have the right to request a Reasonable Accommodation. HACA will consider all Reasonable Accommodation requests under the Fair Housing Act and Section 504 of the American Disabilities Act. Information related to the Fair Housing Act, Section 504 and Requests for Reasonable Accommodation will be included in the denial letters.

If the basis for the denial relates to family violence, the applicant may qualify for an exception under the VAWA Amendments. Information related to VAWA will be included in the denial letters.

Criminal Activity [24 CFR 982.553]

HACA is responsible for screening family behavior and suitability for tenancy. In doing so, HACA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts that would adversely affect the health, safety or welfare of other tenants.

HACA Policy

If any household member has engaged in or attempted any of the following criminal activities regardless of the date committed the family will be denied admission:

capital murder
murder/manslaughter
kidnapping
child-molestation
rape or crimes of a sexual nature
incest

~~gross lewdness~~

arson

childmolestation/indecent with a child

first degree felony injury to a child, elderly individual, or disabled individual

crimes involving terrorism

crimes involving explosives

If any household member is currently engaged in, or has engaged in any of the following criminal activities, ~~within the past four years~~ during the designated review period, the family will be denied admission:

Within the past five years:

Manslaughter

Criminally ~~Negligent~~ Negligent Homicide

Within the past 4 years:

Public lewdness

- (1) Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution or use of a drug or the possession of a drug with intent to manufacture, sell distribute or use the drug [24 CFR 5.100].
- (2) Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- (3) Illegal possession/discharge/display/carrying of firearm or illegal weapon/ deadly weapon.
- (4) Assault, aggravated assault, assault by threat, stalking.
- (5) Physical violence to persons or property, or criminal activity that has as one of its elements the use, attempted use or threatened use of physical force against the person or property of another.
- (6) Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- (7) Criminal activity that may threaten the health or safety of property owners, management staff, HACA staff, persons performing contract administration functions or other responsibilities on behalf of HACA including contractors, subcontractors or agents.
- (8) Three or more incidences or convictions of alcohol-related criminal activity, including Driving under the Influence and Public Intoxication.

(9) Burglary of a habitation.

(10) Unlawful Restraint (misdemeanor).

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the **past three years**, the family will be denied admission:

- ~~1. A pattern of abuse of alcohol, including, but not limited to, public intoxication and driving while intoxicated.~~
- ~~2. A pattern of fraud committed against a governmental entity.~~
- ~~1. A pattern of misdemeanor possession of marijuana (two ounces or less).~~
- ~~3. A pattern of theft or fraud.~~
- ~~4. A pattern of organized criminal activity.~~
- ~~5. A pattern of prostitution.~~
- ~~5. A pattern of misdemeanor harassment.~~
6. A pattern (for the purposes listed above) consists of three or more incidences, with a minimum of two or more incidences occurring within the last three years.

If an applicant has one offense of a Class C misdemeanor within the past four years, HACA will not deny the applicant. More than one Class C misdemeanor will be considered a pattern (for the purpose of determining eligibility) and the applicant may be subject to denial based on the nature of the offenses.

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

Evidence of such criminal activity includes, but is not limited to, any record of convictions, arrests or evictions for suspected drug-related or violent criminal activity of household members. A conviction for such activity will be given more weight than an arrest or an eviction.

HACA will not deny an application solely on the basis of an arrest. If HACA receives arrest information for a disqualifying activity, HACA may request additional information. Additional information that may be considered, if available, includes the following:

- The police report associated with the arrest which provides the reported circumstances of the arrest.
- Any statements made by witnesses or the applicant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the applicant engaged in the disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

Previous Behavior in Assisted Housing [24 CFR 982.552 e]

HUD authorizes HACA to deny admission based on relevant information pertaining to the family's previous behavior in assisted housing.

In the event of the receipt of unfavorable information with respect to an applicant, HACA must consider the time, nature and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, HACA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence or stalking.

HACA Policy

HACA will deny admission to an applicant family for the following reasons.

- 1) If the head of household, spouse, or co-head owes rent or other amounts to HACA or any other PHA in connection with Section 8 or other public housing assistance under the 1937 Act. (Any amounts owed to HACA or other federally subsidized programs will have to be repaid by the applicant before Admissions approval.

HACA will not deny admissions if the head or co-head are moving from the HACA Public Housing program to the HACA Section 8 program (or vice versa) and are in compliance with their HACA repayment agreements. There is a four-year statute of limitations that ends the latter of:

- a) Four years from the date the debt became delinquent, or
 - b) Four years from the date the final payment would have been due if a repayment agreement was signed by the former tenant.
- 2) Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.
 - 3) Any family member has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program. This includes intentional misrepresentation of citizenship or immigration status within the last four years.
 - 4) Refuses to sign and submit consent forms for obtaining information necessary to determine eligibility and continued eligibility for housing assistance.
 - 5) Any family member has been evicted from federally-assisted housing in the last five years.
 - 6) Has engaged in or threatened violent or abusive behavior toward HACA personnel within the last four years.

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

Threatening refers to oral or written threats or physical gestures that communicate

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505;982.503(b)]

Overview

HACA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of HACA's payment standards. The establishment and revision of HACA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under HACA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If HACA has established an exception payment standard for a designated part of a zip code area or an FMR area and a family's unit is located in the exception area, HACA must use the appropriate payment standard for the exception area.

HACA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, HACA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When HACA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

~~If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. HACA will determine the payment standard for the family as follows:~~

~~**Step 1:** At the first regular reexamination following the decrease in the payment standard, HACA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.~~

~~**Step 2:** HACA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by HACA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. HACA will advise the family that the application of~~

the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless HACA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

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In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

HACA Policy

If HACA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, HACA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect. The lower payment standard would be applied if a family moves to a new unit or for any new HAP Contracts.

The PHA/HACA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

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Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, HACA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

HACA-established utility allowance schedule is used in determining family share and HACA

All interior doors must have no holes, have all trim intact, and operate properly.

Floors

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

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

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

Sinks

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

All sinks must have functioning stoppers.

Toilets

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

Security

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

8-1.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

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

HACA Policy

The following are considered life threatening conditions:

Gas leak – This includes natural gas and propane supplied to the unit that is actively leaking.

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

Exposed electrical wiring—Live/Hot electrical connections exposed in the interior or exterior of the unit.

Structural damage – Damage to the unit, or any part of the unit, that appears to compromise the stability of the structure.

Fire/smoke damage—Serious damage to the interior living areas caused by fire and smoke.

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

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

Absence of a functioning toilet in the unit

Any other serious deficiency deemed to be potentially life threatening.

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

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

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

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

Tenant-paid utilities not in service

Failure to provide or maintain appliances owned by the family.

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that result in a breach of HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

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

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225; IFR Notice 1/13/17]

If HACA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, HACA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from HACA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-

Owner and Family Inspection Attendance

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

HACA Policy

At the time of the inspection, if the family occupies the unit, an adult family member or an adult designated by the family must be present for the inspection. The family may notify the inspector that the family will not be present but that the property owner or manager will be present for the inspection. HACA staff will not enter an occupied unit without the presence of an adult family member, property owner, manager or property owner’s representative. The family may request to reschedule the inspection appointment prior to the inspection date with good cause.

At initial inspection of a vacant unit, HACA will gain access as instructed by the owner and inspect the unit. The presence of the owner, owner’s representative, or family representative is permitted, but is not required.

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

Initial Inspections [FR Notice 1/18/17]

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

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HACA Policy

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

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

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Timing of Initial Inspections

~~HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract.~~ HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [24 CFR 982.305(b)(2)].

HACA Policy

HACA will complete the initial inspection, determine whether the unit satisfies HQS and Rent Reasonableness, and notify the owner and the family of the determination within 15

Utilities

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

HACA Policy

All utility connections must be established prior to the initial inspection. The owner and family are required to coordinate to ensure that utility service is connected prior to the inspection date.

Appliances

HACA Policy

If the family is responsible for supplying the stove and/or refrigerator, HACA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place and inspected by HACA prior to executing the HAP contract. HACA will re-inspect the unit within 52 business days of notification to confirm appliances are installed and working properly.

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

HACA Policy

Each unit under HAP contract must be inspected at least biennially within 24 months of the last full HQS inspection.

HACA will not rely on alternative inspection standards.

~~HACA may accept the results of inspections performed by HUD or inspection results for housing assisted under the HOME Investment Partnerships (HOME) program or housing financed using Low-Income Housing Tax Credits (LIHTCs).~~

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Scheduling the Inspection

HACA Policy

If an adult family member cannot be present on the scheduled date, the family should request that HACA reschedule the inspection.

HACA and the family will agree on a new inspection date that generally should take place within 105 business days of the originally- scheduled date. HACA may schedule an inspection more than 105 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, HACA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, HACA will consider the family to have violated its obligation to make the unit available for inspection. This may result in

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

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

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

HACA Policy

HACA will ~~determine rent reasonableness collect and maintain data on market rents in HACA's jurisdiction utilizing the following~~ information sources; include Austin Board of Realtors Multiple Listing Service (MLS), Go Section 8 Rent Reasonableness database, copies of executed leases for unassisted units, rent rolls, and other available sources. ~~The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.~~

How Rents Are Determined

HACA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable unassisted units in the same market area. HACA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, HACA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

HACA will notify the owner of the rent HACA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. HACA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of HACA's request for information or the owner's request to submit information.

HACA Policy

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking, HACA will request documentation in accordance with section 16-IX.D of this plan.

The HACA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the HACA will document the waiver in the family's file.

HACA has adopted an emergency transfer plan, which is included as Addendum 1 to this plan.

HACA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].

HACA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, HACA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, HACA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which HACA gives notice to the owner. [24 CFR 982.403(a) and (c)]

The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give HACA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

10-LB. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which HACA may deny a family permission to move and two ways in which HACA may restrict moves by a family.

Denial of Moves

HUD regulations permit HACA to deny a family permission to move under the following conditions:

Insufficient Funding

HACA may deny a family permission to move either within or outside HACA's jurisdiction if HACA does not have sufficient funding for continued assistance [24 CFR 982.35(e)(1)]. However, Notice PIH 2016-0912-42 significantly restricts the ability of HACA to deny

permission to move due to insufficient funding and places further requirements on HACA regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

HACA Policy

HACA will deny a family permission to move on grounds that HACA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or HACA; (b) HACA can demonstrate that the move will, in fact, result in higher subsidy costs; ~~and~~ (c) HACA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. ; and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If the PHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the PHA's jurisdiction and outside under portability, the PHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The PHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

HACA will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over

families on the waiting list. HACA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

HACA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

HACA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.35(e)(2)].

HACA Policy

If HACA has grounds for denying or terminating a family's assistance, HACA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

Restrictions on Elective Moves [24 CFR 982.35(c)]

HUD regulations permit HACA to prohibit any elective move by a participant family during the family's initial lease term. They also permit HACA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-1.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-092-42].

(For the policy on documentation of abuse, see section 10-1.A.)

HACA Policy

HACA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within HACA's jurisdiction or outside it under portability.

HACA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), or to address an emergency situation over which a family has no control (i.e. fire, flood, or other natural disaster).

In addition, HACA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

If a family or owner seeks to terminate a lease prior to the end of the term, the family must make the request in writing to HACA. Only families, who have not violated family obligations of their Assisted Lease Agreement and do not owe HACA any debts, may be approved to move. The family must first receive approval from the Assisted Housing Director to terminate the lease before the end of the lease term. After this approval is received in writing, the family and owner must sign a mutual rescission of lease.

If the Assisted Lease Agreement is to be terminated by means of a mutual lease rescission on the part of both landlord and tenant, the fully executed rescission form must be returned to the Assisted Housing office at least 30 calendar days prior to the proposed rescission date. Families requesting relocation more than once during any given twelve month period will be denied relocation under continued assistance regardless of any mutual lease rescission rendered.

10-1.C. MOVING PROCESS**Notification**

If a family wishes to move to a new unit, the family must notify HACA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.35(d)(2)]. If the family wishes to move to a unit outside HACA's jurisdiction under

portability, the notice to HACA must specify the area where the family wishes to move [24 CFR 982.35(d)(2), [Notice PIH 2012-42](#)]. The notices must be in writing [24 CFR 982.5].

Approval

HACA Policy

Upon receipt of a family's notification that it wishes to move, HACA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-LA and 10-LB. HACA will notify the family in writing of its determination within 20 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

HACA Policy

For families approved to move to a new unit within HACA's jurisdiction, HACA will perform a new annual reexamination in accordance with the policies set forth in [Chapter 11](#) of this plan.

For families moving into or families approved to move out of HACA's jurisdiction under portability, HACA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

HACA Policy

For families approved to move to a new unit within HACA's jurisdiction, HACA will issue a new voucher within 10 business days of HACA's written approval to move. No briefing is required for these families. HACA will follow the policies set forth in [Chapter 5](#) on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and HACA approves. Otherwise, the family will lose their assistance.

For families moving into or families approved to move out of HACA's jurisdiction under portability, HACA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, HACA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

HACA Policy

The family is still required to comply with the scheduled move out date. No housing assistance payments will be made to the current owner after the scheduled move out date as stated in the intent to vacate notice and 30 day notice provided to the owner. To extend payments of subsidy beyond the scheduled move out date, a written request signed by the owner and tenant is required before the scheduled move out date.

PART II: PORTABILITY

10-IL.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of HACA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA**. The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-092-42].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-ILB when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-ILC when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-IL.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family (24 CFR 982.255(b)).

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside HACA's jurisdiction under portability. However, HUD gives HACA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(c)].

HACA Policy

In determining whether or not to deny an applicant family permission to move under portability because HACA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-LB of this chapter. If the PHA does deny the move due to insufficient funding, the PHA will notify HUD in writing within 10 business days of the PHA's determination to deny the move.

In addition, HACA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

HACA Policy

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in HACA's jurisdiction at the time the family's initial application for assistance was submitted, the family must lease a unit within HACA's jurisdiction for at least 12 months before requesting portability.

HACA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence sexual assault, or stalking.

Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.353(b)].

HACA Policy

HACA will determine whether a participant family may move out of HACA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-1.A and 10-1.B of this chapter. HACA will notify the family of its determination in accordance with the approval policy set forth in section 10-1.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, HACA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-092-42].

Participant Families

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

HACA Policy

For a participant family approved to move out of its jurisdiction under portability, HACA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

HACA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require HACA to provide information on portability to all applicant families that qualify to lease a unit outside HACA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

HACA Policy

No formal briefing will be required for a participant family wishing to move outside HACA's jurisdiction under portability. However, HACA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

HACA will provide the name, address, and phone of the contact for HACA in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family must select the receiving PHA and notify the initial PHA of which receiving PHA was selected. The PHA will provide the family with contact information for all of the receiving PHAs that serve the area. The PHA will not provide any additional information about receiving PHAs in the area. The PHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the PHA will not provide the family with information for all receiving PHAs in the area.

HACA will advise the family that they will be under the receiving PHA's policies and procedures, including screening subsidy standards voucher extension policies, and payment standards

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, HACA will follow the regulations and procedures set forth in Chapter 5.

HACA Policy

For families approved to move under portability, HACA will issue a new voucher within 20 business days of HACA's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

HACA Policy

HACA will approve **no** extensions to a voucher issued to an applicant or participant

family porting out of HACA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-11E, of this plan will apply, including the requirement that the family applies for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the HACA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 90 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH [24 CFR 982.3-55\(c\)\(3\)-2012-42](#)].

HACA Policy

HACA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

HACA Policy

Because the portability process is time-sensitive, HACA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. HACA will pass this information along to the family. HACA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

Form HUD-52665, Family Portability Information, with Part I filled out
[Notice PIH 2016-[092-42](#)]

A copy of the family's voucher [Notice PIH 2016-[092-42](#)]

A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(74), Notice PIH 2016-[092-42](#)]

Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(74), Notice PIH 2016-[092-42](#)]

HACA Policy

In addition to these documents, HACA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

HACA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2016-[092-42](#), [Letter to Executive Directors, 9/15/15](#)]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. [In cases where suspension of the voucher delays the](#)

initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the initial PHA in writing, contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline. If the initial PHA will honor the late billing, no action is required.

HACA Policy

If HACA has not received an initial billing notice from the receiving PHA ~~within 90~~the billing deadline, days of expiration of the HHA's voucher, it will contact the receiving PHA ~~by phone, fax, or e-mail on the next business day to inform them. If HACA reports that the family is not yet under HAP contract, HACA will inform the receiving PHA that~~ it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. HACA will send the receiving PHA a written confirmation of its decision by mail.

HACA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-092-42]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner

that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. HACA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving HACA as well as for families that remain within its jurisdiction.

HACA Policy

The initial PHA will try to utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-ILC. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving

PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4)).

HACA Policy

HACA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into HACA's jurisdiction under portability, the family is responsible for promptly contacting HACA and complying with HACA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-092-42]. (For more on this topic, see later under "Denial or Termination of Assistance.")

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2008-43]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PHH2012P1H2016-4209].

HACA Policy

HACA will require the family to attend a briefing. HACA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about HACA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

HACA Policy

For any family moving into its jurisdiction under portability, HACA will conduct a new reexamination of family income and composition based on the current 50058 provided.

HACA will not delay issuing the family a voucher or delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and HACA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, HACA will rely upon the current 50058 submitted by the Initial PHA along with any supporting documentation and verifications provided to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days.

New information may be verified by documents provided by the family and readjusted retroactively to the initial start date of the first HAP, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-092-42].

HACA Policy

When a family ports into its jurisdiction, HACA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial

PHA is incomplete, the family's circumstances have changed, the family's voucher from the initial PHA has expired or the family does not comply with HACA's procedures. HACA will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

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HACA Policy

- The receiving PHA's voucher will expire 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice PIH 2016-092-42]

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

HACA Policy

HACA generally will not extend the term of the voucher that it issues to an incoming portable family unless HACA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

HACA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit

under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose., Notice PIH 2016-092-42]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2016-092-42].

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

HACA Policy

Unless the PHA negotiates a different amount of reimbursement with the initial PHA, the PHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) ~~(a) no later than 10 business days following the date the receiving PHA executes a HAP contract on behalf of the family and (b) in time that the notice will be received~~ no later

than 960 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-092-42]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

HACA Policy

HACA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing ~~within 10 business days following the date the HAP contract is executed by the deadline~~, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH2016-092-42].

Ongoing Notification Responsibilities [Notice PIH 2016-092-42, HUD-52665]

Annual Reexamination The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

HACA Policy

HACA will send a copy of the updated HUD-50058 by regular ~~mail~~ mail no later than 10 business days after the effective date of the reexamination at the same time the family and owner are notified of the reexamination results.

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Change in Billing Amount The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-092-42]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between HACAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2016-092-42]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.

Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in [Notice

PIH 2016-092-42]

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, HACA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665 Notice PIH 2016-092-42].

HACA Policy

If HACA elects to deny or terminate assistance for a portable family, HACA will notify the initial PHA within 10 business days after the informal review or hearing if the denial

or termination is upheld. HACA will base its denial or termination decision on the policies set forth in [Chapter 3](#) or [Chapter 12](#), respectively. The informal review or hearing will be held in accordance with the policies in [Chapter 16](#). The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when HACA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) HACA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-092-42].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, ~~HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family family~~ the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2016-0912-42].

HACA Policy

If HACA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, HACA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If HACA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability. [24 CFR 982.355(e)(4)].

CHAPTER 11 REEXAMINATIONS INTRODUCTION

HACA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), HACA must issue the family a new voucher, and the family and HACA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HACA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

EIV and Fraud

During the reexamination process, Eligibility Specialists will obtain EIV (Upfront Income Verification) or TWC (Texas Workforce Commission) data at each annual review and identify any unreported or underreported income. Eligibility Specialists may obtain information from any other sources, including but not limited to: Texas Department of Human Services, the Attorney General's office, and The Work Number.

If the reexamination discloses that the participant, at the time of admission or at any previous reexamination, made misrepresentations, the participant will be notified in writing of such misrepresentation. The procedures described in [Chapter 14](#) will be followed and the participant may be required to repay HACA for any overpayments made as a result of misrepresentation or may be processed for termination. The procedures regarding enforcement of fraud are detailed in [Chapter 12](#) and [Chapter 14](#).

11-1.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents or is considered a vulnerable youth in accordance with PHA Policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

HACA Policy

During the annual reexamination process, HACA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in [24 CFR 5.612] by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a vulnerable youth based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), HACA will process a reexamination in accordance with the policies in this chapter.

11-I.F. EFFECTIVE DATES

HACA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

HACA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If HACA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HACA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family's tenant file will be documented to reflect how the family caused the delay in processing and explain why the family did not receive the full 30 days notice of increase. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; [FR Notice 1/18/17](#)]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis, and designed for use as a principal place of residence. HCV- assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and HACA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in [15-VI.D](#) below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE**Family Income**

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION[\[FR Notice 1/18/17\]](#)**Payment Standards**

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. HACA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces. The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

HACA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

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Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

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Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross)-manufactured home space rent (including other eligible housing expenses) minus the TTP.

relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

~~The family is entitled to request an interpreter. Upon request, the HACA will provide competent interpretation services, free of charge. The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or HACA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, HACA is still obligated to provide oral translation service in accordance with its LEP plan.~~

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. HACA may, but is not required to provide a transcript of the hearing.

HACA Policy

HACA will not provide a transcript of an audio taped hearing.

Hearing Decision

HACA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 15 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that HACA provide a hearing. The request for a hearing must be made either within 30 days of receipt of HACA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

HACA must retain for a minimum of 5 years the following documents that may have been submitted to HACA by the family, or provided to HACA as part of the USCIS appeal or HACA informal hearing process:

- The application for assistance;
- Form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- Signed verification consent form;

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Indicator 13: Lease-up

Maximum Points: 20 points

—This indicator shows whether HACA enters HAP contracts for the number of units or funding reserved under ACC for at least one year, at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.

Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by HACA, according to data from HACA's last year end operating statement that is recorded in HUD's accounting system: utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances

Maximum Points: 10

Only applies to PHAs with mandatory FSS programs.

This indicator shows whether HACA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.

Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders

Maximum Points: 5

Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.

This indicator shows whether voucher holders were successful in leasing units with voucher assistance.

Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

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that individual stands in the position or place of a parent; or

- Any other individual tenant or lawful occupant living in the household of that the victim of domestic violence, dating violence, sexual assault, or stalking.

The term *sexual assault* means:

- Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

The term *stalking* means:

- To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)] Notification to Public

HACA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

HACA Policy

HACA will post the following information regarding VAWA in its offices and on its Web-site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault or stalking. (see sample notices in Exhibits 16-1 and 16-2)

The definitions of domestic violence, dating violence, sexual assault and stalking provided in VAWA (included in Exhibits 16-1 and 16-2)

An explanation of the documentation that HACA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)

A copy of form, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A copy of the PHA's emergency transfer plan (Addendum 1)

A statement of HACA's obligation to keep confidential any information that it receives from a victim unless (a) HACA has the victim's written permission to

release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

HACA is required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

HACA Policy

HACA will provide all applicants with information about VAWA at the time they request an application for housing assistance. HACA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

HACA will provide all participants with information about VAWA at the time of admission (see section 5-1.B) and at annual reexamination. HACA will also include information about VAWA in notices of termination of assistance, as provided in section 12-11.F.

The VAWA information provided to applicants and participants will consist of the Notice of Occupancy Rights under VAWA in Exhibit 16-1 and a copy of form, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

While PHAs are no longer HACA is required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

HACA Policy

HACA will provide owners and managers with information about their rights and obligations under VAWA on HACA's website and at initial lease-up for HCV participants, when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the Notice to Housing Choice Voucher Owners and Managers regarding the Violence Against Women's Act in Exhibit 16-2 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

HACA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to request that the individual making

the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. HACA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy HACA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- 1) A completed and signed HUD-approved certification form (Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim.
- 2) A federal, state, tribal, territorial, or local police report or court record, or administrative record, or
- 3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bonafide incidents of abuse. The victim must also sign the documentation.

HACA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

HACA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

HACA may, in its discretion, extend the deadline for 10 business days. Any extension granted by HACA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where HACA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, HACA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). HACA within 30 calendar days of the date of the request for third-party documentation must honor any court orders issued to protect the victim or to address the distribution of property.

HACA Policy

If presented with conflicting certification documents (two or more Certifications of

Domestic Violence, Dating Violence, Sexual Assault, or Stalking forms) from members of the same household, HACA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with [24 CFR 5.2007(e)] and by following any HUD guidance on how such determinations should be made. The family will have 30 calendar days from the date of request by the PHA to provide this documentation.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

HACA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence (i.e., without requiring formal documentation of abuse in accordance with [24 CFR 5.2007(b)]).

HACA Policy

If HACA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, HACA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as HACA may allow, HACA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to HACA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that HACA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

HACA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HACA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380 NOTICE TO HOUSING CHOICE VOUCHER APPLICANTS AND PARTICIPANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

SAMPLE NOTICE TO HOUSING CHOICE VOUCHER APPLICANTS AND PARTICIPANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Housing Choice Voucher Program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under HUD's Housing Choice Voucher Program you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Residents

If you are receiving assistance under HUD's Housing Choice Voucher Program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under HUD's Housing Choice Voucher Program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

Your landlord may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If your landlord chooses to remove the abuser or perpetrator, your landlord may not take away the rights of eligible residents to the unit or otherwise punish the remaining residents. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the landlord must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of

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time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, your landlord must follow Federal, State, and local eviction procedures. In order to divide a lease, your landlord may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, HACA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance.

In order to approve a request, HACA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking.

If the request is a request for emergency transfer, HACA will ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from

further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar day period before you expressly request the transfer.

HACA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HACA's emergency transfer plan provides further information on emergency transfers, and HACA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HACA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HACA must be in writing, and HACA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from

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the day you receive the request to provide the documentation. HACA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HACA as documentation. It is your choice which of the following to submit if HACA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HACA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or

incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that HACA has agreed to accept. If you fail or refuse to provide one of these documents within the 14 business days, HACA does not have to provide you with the protections contained in this notice.

If HACA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HACA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HACA does not have to provide you with the protections contained in this notice.

Confidentiality

HACA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HACA must not allow any individual administering assistance or other services on behalf of HACA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HACA must not enter your information into any shared database or disclose your information to any other entity or individual. HACA, however, may disclose the information provided if:

- You give written permission to HACA to release the information on a time limited basis.
- HACA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HACA or your landlord to release the information.

VAWA does not limit management's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HACA cannot hold residents who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to residents who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HACA and/or your landlord can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- (1) Would occur within an immediate time frame, and
- (2) Could result in death or serious bodily harm to other residents or those who work on the property.

If HACA or your landlord can demonstrate the

above, HACA and/or your landlord should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with HUD's San Antonio Field Office.

For Additional Information

- You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.
- Additionally, HACA must make a copy of HUD's VAWA regulations available to you if you ask to see them.
- For questions regarding VAWA, please contact HACA at 512-477-1314.
- For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). For tenants who are or have been victims of stalking seeking help, may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Local organizations that offer assistance to victims of domestic violence, dating violence, sexual assault, or stalking (list is not exhaustive):

- **Safe Place**
24/7 Hotline: (512) 267-SAFE (7233)
- **The Salvation Army Shelter for Women and Children**
4523 Tannehill Ln
Austin, TX 78721
(512) 933-0600
- **Casa Marianella**
Posada Esperanza
821 Gunter St
Austin, TX 78702
(512) 928-8862
- **Asian Family Support Services of Austin**
Hotline: 1-877-281-8371
Local: (512) 651-3743
- **Travis County Health and Human Services Community Centers**

Palm Square 100 N IH 35 Suite 2000 Austin, TX 78701 512-854-4120	Del Valle 3518 FM 973 S Del Valle, TX 78617
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	512-854-1520
Post Road 2201 Post Rd., Ste. 101 Austin, TX 78704 512-854-9130	Manor 600 W Carrie Manor St. Manor, TX 78653 512-854-1550
Pflugerville 15822 Foothill Farm Lp Pflugerville, TX 78660 512-854-1530	Oak Hill 8656 W Hwy 71 Oak Hill, TX 78735 512-854-2130

• **City of Austin Neighborhood Centers**

Blackland 2005 Salina St Austin, TX 78722 512-972-5790	East Austin 211 Comal St. Austin, TX 78702 512-972-6650
Montopolis 1416 Montopolis Dr. Austin, TX 78741 512-972-6650	Rosewood-Zaragoza 2800 Webberville Rd. Austin, TX 78702 512-972-6740
South Austin 2508 Durwood St. Austin, TX 78704 512-972-6840	

{Insert Name of Housing Provider²}

Notice of Occupancy Rights under the Violence Against Women Act³

¹ The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD's program specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

² Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.⁴ The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that [insert name of program or rental assistance] is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.

Protections for Applicants

If you otherwise qualify for assistance under [insert name of program or rental assistance], you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

⁴ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Protections for Tenants

If you are receiving assistance under [insert name of program or rental assistance], you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under [insert name of program or rental assistance] solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

HP may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HP chooses to remove the abuser or perpetrator, HP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

2. You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP will keep confidential requests for emergency transfers by victims of domestic violence.

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dating violence, sexual assault, or stalking, and the location of any move by such victims and their families;

HP's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HP can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HP must be in writing, and HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HP as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.

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- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HP does not have to provide you with the protections contained in this notice.

If HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HP has the right to request that you provide third party documentation within thirty (30) calendar days in order to resolve the conflict. If you fail or refuse to provide third party documentation where there is conflicting evidence, HP does not have to provide you with the protections contained in this notice.

Confidentiality

HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HP must not allow any individual administering assistance or other services on behalf of HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HP must not enter your information into any shared database or disclose your information to any other entity or individual. HP, however, may disclose the information provided if:

- You give written permission to HP to release the information on a time-limited basis.
- HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HP or your landlord to release the information.

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VAWA does not limit HP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

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If HP can demonstrate the above, HP should only terminate your assistance or evict you if there

~~are no other actions that could be taken to reduce or eliminate the threat.~~

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with [insert contact information for any intermediary, if applicable] or [insert HUD field office].

For Additional Information

You may view a copy of HUD's final VAWA rule at [insert Federal Register link].

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact [insert name of program or rental assistance contact information able to answer questions on VAWA].

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact [Insert contact information for relevant local organizations].

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact [Insert contact information for relevant organizations].

~~Victims of stalking seeking help may contact [Insert contact information for relevant organizations].~~

~~Attachment: Certification form HUD-5382 [form approved for this program to be included]~~

~~This sample notice was adapted from a notice prepared by the National Housing Law Project.~~

~~A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault or stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.~~

~~Protections for Victims~~

~~If you are eligible for a Section 8 voucher, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, sexual assault or stalking.~~

~~If you are the victim of domestic violence, dating violence, sexual assault, or stalking, you cannot be terminated from the Section 8 program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault or stalking that are caused by a member of your household or a guest can't be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.~~

~~Reasons You Can Be Evicted~~

~~You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to participants who are not victims.~~

~~Removing the Abuser from the Household~~

~~Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser's Section 8 rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.~~

~~Moving to Protect Your Safety~~

~~The housing authority may permit you to move and still keep your rental assistance, even if~~

~~your current lease has not yet expired. The housing authority may require that you be current on your rent or other obligations in the housing choice voucher program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.~~

~~Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking~~

~~The housing authority and your landlord can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault or stalking. The housing authority or your landlord must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline. There are three ways you can prove that you are a victim:~~

- ~~• Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.~~
- ~~• Provide a statement from a victim service provider, attorney, mental health professional, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”~~
- ~~• Provide a police or court record, such as a protective order, or an administrative record.~~

~~Additionally, at its discretion, the housing authority can accept a statement or other evidence provided by the applicant or participant.~~

~~If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.~~

~~Confidentiality~~

~~The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:~~

- ~~• You give written permission to the housing authority or your landlord to release the information.~~
- ~~• Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.~~
- ~~• A law requires the housing authority or your landlord to release the information.~~

~~If release of the information would put your safety at risk, you should inform the housing~~

authority and your landlord.

VAWA and Other Laws

VAWA does not limit the housing authority's or your landlord's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault or stalking.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a participant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(u)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

**EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION,
FORM HUD-5382**

CERTIFICATION OF _____ U.S. Department of Housing _____ OMB Approval No. 2577-0286

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DOMESTIC VIOLENCE, _____ and Urban Development _____ Exp. 06/30/2017

DATING VIOLENCE,

SEXUAL ASSAULT, OR STALKING,

AND ALTERNATE DOCUMENTATION

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional"), from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Draft October 2017 Revised August 17, 2017

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Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and time(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

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This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Purpose of Form: The Violence Against Women Reauthorization Act of 2013 ("VAWA") protects qualified tenants, participants, and applicants, and affiliated individuals, who are victims of domestic violence, dating violence, sexual assault, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

Use of Form: This is an optional form. An owner or manager presented with a claim for continued or initial tenancy or assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking (herein referred to as "Victim") has the option to request that the Victim document or provide written evidence to demonstrate that the violence occurred. The Victim has the option of either submitting this form or submitting third-party documentation, such as:

- (1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or
- (2) Documentation signed by the Victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the Victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 Code of Federal Regulations (CFR) § 5.2005 or 24 CFR § 5.2009.

Submission of Documentation Deadline: If this form is used by the Victim, the Victim must complete and submit it within 14 business days of receiving it from HACA. This form must be returned to the person and address specified in the written request for the certification. If the Victim does not complete and return this form (or provide third-party verification) by the 14th business day or by an extension of the date provided by the manager or owner, the Victim cannot be assured s/he will receive VAWA protections.

If the Victim submits this form or 3rd party documentation as listed above, HACA cannot require any additional evidence from the Victim.

Confidentiality: All information provided to HACA concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking relating to the Victim (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking) shall be kept confidential by the owner or manager, and such information shall not be entered into any shared database. Employees of the owner, or manager are not to have access to these details unless to afford or reject VAWA protections to the Victim; and may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) requested or consented to by the Victim in writing; (ii) required for use in an eviction proceeding; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VAWA VICTIM:

<u>Today's Date</u> _____	<u>Victim's Name:</u> _____ <u>Current Address of Victim:</u> _____	<u>Name of Person Completing This Form:</u> _____
<u>Names of Person(s) Living with the Victim</u> _____		
<u>Phone Number of Victim:</u> <input type="checkbox"/> Home () <input type="checkbox"/> Cell () <input type="checkbox"/> Work ()		
<u>Email address of Victim:</u> _____		
<u>Name of the Perpetrator (Note: The Victim is required to provide the name of the perpetrator only if the name of the perpetrator is safe to provide, and is known to the victim.)</u> _____		_____
<u>Perpetrator's Relationship to Victim (if any):</u> _____	<u>Does the Victim currently live with the Perpetrator?</u> _____	
<u>Description of Incident 1</u> <i>The Victim may provide a description of each incident on a separate sheet if more space is needed.</i>		
<u>Date(s) the Incident(s):</u> _____	<u>Location of Incident(s):</u> _____	
<u>Description of Incident(s) (This description may be used by the owner or manager for purposes of evicting the perpetrator. Be as descriptive as possible.):</u> _____ _____		
<small>Title 18, Section 2001 of the U.S. Code states that a person is guilty of a felony for knowingly and willfully making false or fraudulent statements to any department of the United States Government. HUD, the PHA and any owner (or any employee of HUD, the PHA or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes stated above. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages and seek other relief, as may be appropriate, against the officer or employee of HUD, the PHA or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the Social Security Act at 208 (a) (6), (7) and (8). Violations of these provisions are cited as violations of 42 U.S.C., 408 (a) (6), (7) and (8).</small>		

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Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response, This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence, sexual assault or stalking. I acknowledge that submission of false information is a basis for denial of admission, termination of assistance, or eviction.

Please print name: _____

Signature: _____

Executed on (Date) _____

EXHIBIT 16-3: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER U.S. Department of Housing OMB Approval No. 2577-0286

REQUEST FOR CERTAIN and Urban Development Exp. 06/30/2017

VICTIMS OF DOMESTIC

VIOLENCE, DATING VIOLENCE,

SEXUAL ASSAULT, OR STALKING

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or

Comment [e1]: If this is already included as Addendum I, does it need to be included here too?
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otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

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2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit. _____

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12. If voluntarily provided, list any third-party documentation you are providing along with this notice:

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This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____

Signed on (Date) _____

EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is has been a victim of domestic violence, dating violence, sexual assault or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, sexual assault or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is victim by providing any one of the following three documents:

- A completed, signed HUD approved certification form. The most recent form is HUD-50066. This form is available at the housing authority or online at
- A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
- A police or court record, such as a protective order, or administrative record.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information;
- The information is required for use in an eviction proceeding, such as to evict the abuser;
- Release of the information is otherwise required by law;

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault or stalking.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship
-
- VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).
-

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

EXHIBIT 16-4: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

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A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- A completed, signed HUD-approved certification form. The most recent form is HUD-5282. This form is available at the housing authority or online at <http://portal.hud.gov/hudportal/documents/huddoc?id=5282.docx>.
 - A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
 - A police or court record, such as a protective order, or administrative record.
- If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
 - The information is required for use in an eviction proceeding, such as to evict the abuser.
 - Release of the information is otherwise required by law.
- The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

Additional Information

~~If you have any questions regarding VAWA, please contact _____~~

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines domestic violence to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines dating violence as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines sexual assault as "any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines stalking as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she has been a victim of domestic violence, dating violence, sexual assault or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, sexual assault or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is victim by providing any one of the following three documents:

☐ A completed, signed HUD-approved certification form – Certification of Domestic Violence, Dating Violence, Stalking or Sexual Assault.

☐ A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

☐ A police or court record, such as a protective order, or administrative record.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.

Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault or stalking.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

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

PART I: GENERAL REQUIREMENTS

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

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 ~~voucher program budget authority~~ 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)].

HACA Policy

HACA may operate a project-based voucher program that utilizes up to 200 tenant based vouchers.

HACA may decide to project-base vouchers above the 200 voucher limit (but no more than 20 percent of its ~~voucher program budget authority~~ authorized units), if HUD publishes a notice making available PBV for HUD-VASH vouchers or other PBV special purpose vouchers or for a project that would provide affordable housing for low-income or homeless veterans.

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 budget authority 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 [24 CFR 983.6].

1 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).
- Are specifically made available to house families that are comprised of or include a veteran.

- 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.
- 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.
PHA Policy

The PHA will not 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
 - The unit 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)

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

PHAHACA Policy

The PHAHACA may project-base the unit types that meet the requirements described above.

7-1.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.

HACA Policy

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

17-1.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.

17-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

17-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].

17-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 proposal 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.

- This exception applies to projects in which the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site.
- *Ownership interest* means that the PHA or its officers, employees, or agents are in an entity that holds any direct or indirect interest in the building, including, but not limited to an interest as: titleholder; lessee; stockholder; member, or general or limited partner; or a member of a limited liability corporation.
- Further, the PHA must be planning rehabilitation or construction on the project with a minimum of \$25,000 per unit in hard costs.
- The PHA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

PHAHACA Policy

HACA may attach PBVs to projects owned by HACA to improve, develop or replace its public housing property through the Rental Assistance Demonstration (RAD) conversions. Before taking such an action, HACA would amend this Administrative Plan, including seeking public comment and offer specific information of what work it plans to do on HACA property or site and how many PBV units will be added to the site.

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.

HACA Policy

HACA Request for Proposals for Rehabilitated and Newly Constructed Units

HACA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

Austin American Statesman

The Austin Chronicle

The Villager

El Mundo

Nokoa

Ahora-Si

HACA may also advertise the RFPs in other trade journals and industry sources, including electronic advertising, as HACA determines is appropriate for the project.

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

HACA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number of project based units that HACA estimates will be available. The due date for proposals will be specified in the RFP. In order for the proposal to be considered, the owner must submit the proposal to HACA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

HACA 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 HACA's goal of deconcentrating poverty and expanding housing and economic opportunities;

Projects which will provide affordable housing and support services to individuals or families experiencing homelessness.

Projects which will provide affordable housing and support services to low-income or homeless veterans.

HACA Requests for Proposals for Existing Housing Units

HACA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

Austin American Statesman

The Austin Chronicle

The Villager

El Mundo

Nokou

Ahora-Si

HACA may also advertise the RFPs in other trade journals and industry sources, including electronic advertising, as HACA determines is appropriate for the project.

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

HACA may periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for two consecutive weeks. The advertisement will specify the number of project based units available. The due date for proposals will be specified in the RFP. 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 HACA's goal of deconcentrating poverty and expanding housing and economic opportunities;

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

Projects which will provide affordable housing and support services to individuals or families experiencing homelessness.

Projects which will provide affordable housing and support services to low-income or homeless veterans.

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

HACA may select, without competition, a proposal for housing assisted under a federal, State, or local government housing assistance, community development, or supportive services program that required competitive selection of proposals (e.g., HOME and units competitively awarded low-income housing tax credits (LIHTCs)), where the proposal has been selected in accordance with such program's competitive selection requirements within 3 years of the PBV proposal selection date, and the earlier competitively selected housing assistance proposal did not involve any consideration that the project would receive PBV assistance.

HACA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

Austin American Statesman

The Austin Chronicle

The Villager

El Mundo

Nokou

Ahora-Si

HACA may also advertise the RFPs in other trade journals and industry sources, including electronic advertising, as HACA determines is appropriate for the project.

In addition to, or in place of advertising, HACA may, on an ongoing basis, 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. Any awards of PBV units selected under this method will be published in the Austin American Statesman within 30 days of the award.

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

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

Extent to which the project furthers HACA's goal of deconcentrating poverty and expanding housing and economic opportunities; and

Projects that will provide affordable housing and support services to individuals or families experiencing homelessness.

Projects which will provide affordable housing and support services to low-income or homeless veterans.

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

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

17-ILF. 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 [2FR Notice 1/18/174-CFR-983.56(b)]

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

- ~~The units are in a single-family building (one to four units);~~
- ~~The units are *excepted units* in a multifamily project because they are specifically made available for elderly and/or disabled families~~
- ~~or families receiving supportive services (also known as *qualifying families*);~~
- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates

The 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.

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. 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, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. 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.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

~~The PHA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA administrative plan must state the form and frequency of such monitoring.~~

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HACA Policy

~~HACA will require non-elderly and non-disabled families living in excepted units to~~

receive supportive services. At least one member of the family must be receiving support services.

HACA will develop housing for occupancy by families in need of services. This may include disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) program. Families will not be required to accept and receive supportive services for the exception to apply to the unit.

The following types of services will be provided depending on the needs of the family:

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Supportive Services

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The types of supportive services that will be offered include, but are not limited to:

Job readiness / Job training: Includes preparation and counseling, job development and placement, follow-up assistance after placement, completion of FSS "Contract of Family Participation;

Education: Includes education for the completion of GED, post-secondary education, or computer training classes for children and adults.;

Household Training: Includes homemaking, parenting skills, financial literacy and stability programs;

Self-Sufficiency Services and Resources: Includes participating in the FSS program and accessing all appropriate services to assist the family to achieve economic independence and self-sufficiency.

Substance Abuse Treatment: Includes counseling, treatment for substance abuse and participation in ongoing support groups.

~~Exempted units will also include units in single-family buildings and those made available for elderly or disabled families.~~

~~HACA will monitor the continued participation in the supportive services on an annual basis as part of the annual recertification. Families will be required to provide documentation from the service provider showing that a family member was actively receiving services throughout the year and are still receiving services. Families can use a verification form provided by HACA or original documents from the service provider.~~

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 303), 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.

PHAHACA Policy

The PHAHACA does not have any PBV units that are subject to the per project cap exception.

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.

HACA Policy:

HACA may provide assistance for excepted units as defined in 24 CFR 983.56(b) and described above in Section 17-II.F. The per-project cap will be defined in the PBV proposals (RFP), the agreement to enter into HAP contract, and the HAP contract.

17-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

implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

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

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. 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)

17-III.D. INSPECTING UNITS

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.

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.

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.

covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract 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; FR Notice 1/18/17]

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.

HACA Policy

For existing housing, the HAP contract will be executed within 15 business days of HACA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 15 business days of HACA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [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~~45 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~~45 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)].

HACA 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~~45 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~~45 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed ~~40~~45 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)].

HACA Policy

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

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

The condition of the contract units;

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

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
Whether the funding could be used more appropriately for tenant-based assistance.

Termination by 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.

HACA Policy

HACA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies defined in the tenant-based voucher program. These policies are contained in Chapter 8 of HACA's HCV Administrative Plan.

17-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 24 CFR 983.207(b)]

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

HACA Policy

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

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

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].

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

~~With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing:~~

~~Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and~~

~~For whom such services cannot be provided in a non-segregated setting.~~

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project 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 more than 25 percent of the units receiving project-based assistance because those projects include "excepted units" for elderly families or supportive services (units specifically made available for elderly or disabled families, or families receiving 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].~~

HACA Policy

HACA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for "excepted units," elderly families or units with supportive services, or mobility impaired persons for accessible units).

HACA may offer additional preferences for the PBV program or for particular PBV projects or units, ~~depending on the supportive services offered at those units. When HACA has the opportunity to target PBV's for special-needs populations, HACA will enter into a Memorandum of Understanding (MOU) to provide supportive housing in collaboration with the PBV partner to define the additional preferences, eligibility~~

~~requirements and referral process, another local agency which would provide the supportive services for the special needs population. In the MOU, the two organizations will identify the referral criteria and establish policies to ensure eligibility requirements are met.~~

At the time the project's waiting list is opened, applicants on the tenant-based waiting list will be given the opportunity to be added to the project's waiting list. Additionally, referrals would come directly from the collaborating agency to be added to the project waiting list. Families who meet the criteria would be given first preference for the limited preference units.

17-VLE. 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.

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

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

Acceptance of Offer [24 CFR 983.252]

Family Briefing

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

Persons with Disabilities

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

Owner Termination of Tenancy [24 CFR 983.257]

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

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(e); FR-Notice 11/24/08]

If a family is living in a project-based unit that is exempt from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

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

The 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.

HACA Policy

If a participating family receiving zero rental assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify HACA 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

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.

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 [24 CFR 983.56]:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- 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
- ~~In a single-family building;~~
- ~~Specifically made available for elderly and/or disabled families; or~~
- ~~Specifically made available for families receiving supportive services as defined by the PHA. At least one member must be receiving at least one qualifying supportive service.~~

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined 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 that no longer meets the criteria for a "qualifying family" in connection with the 25-percent-per-project cap exception (e.g. a family that does not successfully complete its FSS contract of participation or supportive services requirements, or because the family that is no longer an elderly family or disabled due to a change in family composition where the PHA has the discretion does not exercise 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 ~~or disabled~~ family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly ~~or disabled~~ family member or long-term or permanent hospitalization or nursing care), the elderly ~~or disabled~~ 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.

HACA Policy

HACA will 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, ~~when HACA determines that a family no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception,~~ HACA 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, HACA will terminate the housing assistance payments at the expiration of this 30-day period.

HACA 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.

~~HACA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to HACA, HACA will amend the HAP contract to reduce the total number of units under contract.~~

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

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

During the term of the HAP contract, the rent to owner is 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.

17-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.

HACA Policy

HACA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination

of the rent to owner, the reasonable rent would result in a rent below the initial rent, HACA will use the higher initial rent to owner amount.

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.

HACA Policy

Upon written request by the owner, HACA will consider using the FMR or utility allowances 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. HACA 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, HACA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if HACA 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 will not apply SAFMRs to the PHA's PBV program.

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 five 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).

HACA Policy

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

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