

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

Resources and Where to Find Them

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

Resources and Where to Find Them

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

<u>Document and Location</u>
<p><u>Code of Federal Regulations</u></p> <p>https://www.ecfr.gov/http://www.gpoaccess.gov/cfr/index.html</p>
<p><u>Earned Income Disregard FAQ</u></p> <p>https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eidwww.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm</p>
<p><u>Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937: Final Rule</u></p> <p>http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf</p>
<p><u>Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data</u></p> <p>https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDFhttp://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf</p>

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<p><u>Executive Order 11063</u></p> <p>https://www.archives.gov/federal-register/codification/executive-order/11063.htmlhttp://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm</p>
<p><u>Federal Register</u></p> <p>https://www.federalregister.gov/http://www.access.gpo.gov/su_docs/aces/fr cont.html</p>
<p><u>General Income and Rent Determination FAQs</u></p> <p>www.hud.gov/offices/pih/programs/ph/thiip/faq_gird.cfm</p>
<p><u>Housing Choice Voucher Program Guidebook (7420.10G), April 2004 Updated Chapters</u></p> <p>https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebookwww.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm</p>
<p><u>HUD-50058 Instruction Booklet</u></p> <p>https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF</p>
<p><u>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004</u></p> <p>https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdfhttp://www.hud.gov/offices/fheo/library/hud DOJstatement.pdf</p>
<p><u>Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007</u></p> <p>https://www.lep.gov/guidance/HUD_guidance_Jan07.pdfhttp://www.hud.gov/offices/fheo/promotingflh/FederalRegisterpublishedguidance.pdf</p>
<p><u>Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice</u></p> <p>https://www.hud.gov/sites/documents/DOC_8993.PDF</p>

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Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

<https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF>

Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report

https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf

Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

<https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF>

Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>

OMB Circular A-133

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf> <http://www.whitehouse.gov/omb/circulars/a133-compliance-supplement-2010>

Project-Based Voucher Program: Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf>

[Rental Housing Integrity Improvement Program \(RHIP\) Frequently Asked Questions](http://www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm)

www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm

[VAWA Final Rule](http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf)

<http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf>

[Verification FAQ](http://www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm)

www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm

[Verification Guidance, March 2004 \(attachment to Notice PIH 2004 1\)](http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf)

<http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf>

The HUD website ~~Web site~~ is <https://www.hud.gov/>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips webs~~Web site~~:
https://www.hud.gov/program_offices/administration/hudclips.

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf
Executive Order 11063 http://www.hud.gov/offices/theo/FHLaws/EXO11063.cfm
Federal Register http://www.access.gpo.gov/su_docs/aces/fr_cont.html
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Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/theo/library/huddoistatement.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons; published January 22, 2007 http://www.hud.gov/offices/theo/promotingfh/FederalRegistepublishedguidance.pdf
Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report
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OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133-compliance-supplement-2010
Project-Based Voucher Program; Final Rule http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf

Rental Housing Integrity Improvement Program (RHIP) Frequently Asked Questions: <u>www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm</u>
VAWA Final Rule <u>http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf</u>
Verification FAQ <u>www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm</u>
Verification Guidance, March 2004 (attachment to Notice PIH 2004-1) <u>http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf</u>

The HUD Web site is <https://www.hud.gov/>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips Web site:
https://www.hud.gov/program_offices/administration/hudclips.

with or does not know where to contact his/her other parent, HACA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. HACA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory and those in which denial of assistance is optional.

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16].

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

HUD requires HACA to deny assistance in the following cases:

Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD also permits public housing authorities to adopt a policy to deny admissions or terminate assistance if any member of the family has been evicted from federally assisted housing in the last five years (24 CFR 982.552 (c) (1) (ii)). HUD also permits, but does not require, HACA to admit an otherwise-eligible family if the household member has completed HACA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

HACA Policy

For families evicted from federally-assisted housing, HACA will deny assistance if they were evicted from federally-assisted housing in the last five years.

HACA Policy

HUD requires denial of any household member that has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing. In accordance with and furtherance of HUD's requirements, HACA will deny any household member that has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing.

HACA Policy

If any household member is currently registered as a sex offender under any State registration requirement, regardless of whether it is for lifetime or not, the family will be denied admission.

Mainstream Voucher program alternative Criminal Background screening criteria

HACA Policy

As outlined in PIH Notice 2020-22, PHAs are required to apply the same criminal background screening process to all HCV participants. However, HUD encourages PHAS to use Mainstream vouchers to prevent, prepare for, and respond to coronavirus. In Austin, there is a critical need to find long-term solutions for those transitioning out of institutional settings, rapid rehousing or emergency temporary housing into permanent supportive housing. PIH Notice 2020-22, allows PHAs to establish, as an alternative screening requirement for applicants for Mainstream vouchers, which are distinct from those in place for the HCV program. HACA must still comply with the statutory requirements to determine if applicants are subject to lifetime sex offender registration requirements and comply with the other mandatory screening and denial requirements outlined in 42 U.S.C. 13661 and 982.553 (a).

In order to help provide housing solutions to non-elderly disabled individuals and families experiencing homelessness and in an effort to respond to the coronavirus, HACA will apply an alternative criminal screening requirements for Mainstream Voucher wait list applicants, as defined below, as long as the waiver is approved by HUD. At the time the HUD waiver expires, HACA will follow the regular HCV criminal screening criteria for Mainstream Voucher applicants.

This alternative Mainstream Voucher screening criteria includes denials for applicants for the following reasons:

- 1) Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity.
- 2) Denial of any household member that has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- 3) Any household member is subject to a lifetime sex offender registration requirement. Also, if any household member is currently registered as a sex offender under any State registration requirement, regardless of whether it is for lifetime or not, the family will be denied admission.
- 4) HACA determines that a household member is currently illegally using a controlled substance or such household member’s illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, is determined by HACA to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

HUD permits, but does not require, HACA to deny assistance for the reasons discussed in this section.

HACA will conduct an individualized assessment of each candidate’s application. In making a decision to deny admission, 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 admission.

HACA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

Preliminary Eligibility Criteria

All applications will be screened for preliminary eligibility before they are added to the HACA voucher waiting list. If an applicant is found to be preliminarily ineligible, their application will not be added to the program’s waiting list. The following criteria shall be used to determine preliminary ineligibility.

HACA Policy

Families can claim eligibility for any local preference any time from the date they applied up until the time their name is drawn off the waiting list. Preference claims will be verified once they have been drawn off the waiting list during the interview process. If HACA is unable to verify a preference claim, the family will be placed back on the waiting list without the preference.

HACA will open the waiting list or leave the waiting list open for certain preference groups as needed to meet the preference caps listed below.

- 1. Non-specified category vouchers will use the following local preferences for purposes of establishing priority. The local preferences are weighted differently, with the higher number representing a higher ranking. Each applicant family can be granted a maximum of one local preference plus the residency preference (if they qualify).

Weights for each preference are as follows:

Elderly	= 2
Disabled	= 2
Involuntarily Displaced	= 2
Homeless	= 3
Families with Minor Children	= 2
Residency	= 1
RAD Choice Mobility	= 3
PH Special Accommodation	= 3
FUP Youth	= 3
NED+Homeless/Institutionalized	= 2
RAD <u>or</u> PBRA Relocation	= 4
HACA VAWA Emergency	= 5

- (A) **Elderly Preference:** HACA will give preference to elderly families. An elderly family is a family in which the head, spouse or co-head is age 62 or older.
- (B) **Disabled Preference:** HACA will give preference to disabled families. A disabled family is a family in which the head, spouse or co-head is disabled using the current HUD definition of disability.
- (C) **Involuntary Displacement Preference:** HACA will give preference to families displaced as a result of natural disaster or government action. The following documentation will be used to verify displacement status:

Certification from a unit of government concerning displacement due to natural disaster; or

Certification from a unit of government concerning displacement due to code enforcement or public improvement/development or displacement by inaccessibility of a unit.

- (G) **Rental Assistance Demonstration (RAD) Choice Mobility Preference:** As required by HUD and in accordance with all HUD RAD guidelines, if HACA participates in RAD, HACA will provide a Choice-Mobility option to residents of covered RAD projects in accordance with policies outlined in Chapter 18 of this HCV Administrative Plan.
- (H) **Public Housing Special Accommodation Preference:** HACA will give preference to families that are currently housed in ~~Public Housing or~~ Project-Based Rental Assistance developments (PBRA) and waiting on the transfer list for a unit with an accessible accommodation as well as to families that have been certified eligible off the ~~Public Housing or~~ PBRA waiting list and are waiting for a unit with an accessible accommodation. To qualify for this preference, the family must meet all of the following criteria:

For current ~~Public Housing or~~ PBRA families waiting on the transfer list to be eligible, they must:

- a) Be currently housed in ~~Public Housing or~~ PBRA and waiting on the transfer list for a unit with the needed special accommodation;
- b) Have a documented need for a reasonable accommodation which requires a specific type of housing unit (including but not limited to wheelchair accessibility, no stairs, etc).
- c) Have waited more than 9 months since the reasonable accommodation was approved and they were placed on the transfer waiting list without receiving a housing offer specifically because the availability of the needed accommodation is limited within HACA's portfolio and all units with that accommodation are occupied by families needing that accommodation.

If the needed accommodation is not structurally or economically feasible in HACA's existing ~~Public Housing or~~ PBRA portfolio, the family will not be required to wait 9 months.

- d) Have verified income at the time of their last annual or interim recertification which was below the current income limit for the Housing Choice Voucher program.

For families drawn off the ~~Public Housing or~~ PBRA waiting list and waiting for their first housing offer, they must:

- a) Have a current application on the ~~Public Housing or~~ PBRA waiting list which was drawn according to the regular rules and guidelines of the ~~Public Housing or~~ PBRA waiting list.
- b) Have completed eligibility certification and are eligible for the ~~Public Housing or~~ PBRA program.
- c) Have a documented need for a reasonable accommodation which requires a specific type of housing unit (including but not limited to wheelchair accessibility, no stairs, etc).
- d) Have waited more than 9 months since completing the eligibility process for ~~Public Housing or~~ PBRA without receiving a housing offer specifically due to either
 - 1. The needed accommodation is not economically feasible to be done in HACA's existing ~~Public Housing or~~ PBRA portfolio; or
 - 2. The availability of the needed accommodation is limited within HACA's portfolio and all units with that accommodation are occupied by families needing that accommodation.
- e) Had verified income at the time of their eligibility processing which was below the current income limit for the Housing Choice Voucher program.

~~For both current Public Housing or current PBRA families and families or families drawn off the PBRA Public Housing waiting list:~~

- a) If the family chooses the special accommodation preference for HCV, they will be placed on the HCV waiting list with the special accommodation preference.
 - b) When the family's name is drawn from the waiting list, they will be required to meet the eligibility requirements for the HCV program at that time in order to receive a voucher.
 - c) The total number of families (from ~~the combination of both the current Public Housing or~~ PBRA families and families drawn off the ~~Public Housing or~~ PBRA waiting list) eligible to receive this preference will be capped at no more than 10 families per calendar year.
- (I) **FUP Youth Preference:** HACA will give preference to FUP youth whose 36 month FUP voucher is expiring and they will lack adequate housing as a result of voucher expiration. To be eligible for this voucher, the FUP Youth must be referred

by the Texas Department of Family Protective Services (TDFPS), Lifeworks or another social service agency. The referral must indicate that without continued voucher assistance, the FUP Youth will lack adequate housing. Receipt of this preference is not a guarantee of uninterrupted voucher assistance, as issuance of vouchers is dependent on funding availability.

J) **RAD or PBRA Relocation Preference:** HACA may give preference to families currently housed in Public Housing properties that are undergoing significant renovation or redevelopment through RAD or redevelopment of a PBRA property and would require long term (more than 6 months) relocation of residents. If HACA chooses to exercise this option for valid business purposes, HACA will have a special opening of the waiting list only for the identified properties. Families that select this option and apply during the open period will receive this preference.

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(K) **HACA VAWA Emergency Preference:** HACA will give preference to families living in a HACA owned Public Housing property or Project Based Rental Assistance (PBRA) property, who are victims of domestic violence, dating violence, sexual assault or stalking and meet the eligibility requirements outlined in HACA's VAWA Emergency Transfer Move Plan. Due to the potentially life-threatening nature of a VAWA emergency, this preference is the most heavily weighted preference.

(L) **Non-Elderly Disabled Preference for those transitioning from institutions or are homeless:** HACA will provide a preference in its administrative plan for non-elderly persons with disabilities transitioning out of institutional and other congregate settings, or who are non-elderly persons with disabilities who are homeless.

2. Specified category vouchers waiting list selection criteria.

A. **Family Unification Program Vouchers** (targeted funding) Waiting list policy:

Placing FUP eligible families referred by CPS on HACA's HCV waiting list:

The waiting list will remain open for FUP eligible referrals. Eligibility for the FUP vouchers will be based on the respective HUD Notice of Funding Availability and may be limited to referrals from the Texas DFPS. When HACA receives a completed application and referral from the Texas Department of Family and Protective Service (DFPS), the applicant will be placed on the waiting list in order according to the date and time when HACA first received both documents. FUP eligible applicants are granted a preference over all other applicants not eligible for FUP vouchers. Applicants certified eligible for the FUP vouchers will be coded as such on HACA's waiting list. This preference will be granted only for the issuance of FUP vouchers and not any other voucher. If FUP vouchers are not available, FUP eligible families will maintain their original place on the waiting list for the issuance of non-FUP vouchers. All families granted a FUP preference

Therefore, Mainstream NED eligible applicants are granted a preference over all other applicants not eligible for Mainstream NED vouchers. Applicants certified eligible for the Mainstream NED vouchers will be coded as such on HACA's waiting list. This preference will be granted only for the issuance of Mainstream NED vouchers and not any other voucher. If Mainstream NED vouchers are not available, Mainstream NED eligible families will maintain their original place on the waiting list for the issuance of other vouchers. All families granted a Mainstream NED preference will be prioritized based on date and time of being certified eligible and any other applicable preference (elderly, disable, displaced, homeless, residency).

In response to PIH Notice 2020-22, HACA applied for additional Mainstream Vouchers available for coronavirus response efforts. Any new Mainstream vouchers received in response to PIH Notice 2020-22 authorized by the CARES Act, will be prioritized for non-elderly disabled persons residing in Protective Lodging (ProLodge). The Protective Lodging Facilities (ProLodges) consist of 5 motels used by the City of Austin to temporarily shelter vulnerable individuals at high risk of COVID-19 infection, hospitalization, and/or severely negative outcomes (based on CDC guidance) who cannot self-isolate, including persons experiencing homelessness. Individuals experiencing homelessness who are discharged from the Isolation Facility and meet CDC high risk criteria are transferred to the ProLodges, for continued protective sheltering, until exits to safe housing options are identified.

The overall community-housing plan is prioritizing funding to serve ProLodge guests who will be referred through the local Coordinated Entry System for program entry and enrollment. Mainstream NED eligible applicants, referred by ECHO who are residing at the ProLodges will receive a preference to receive a Mainstream Voucher over other Mainstream voucher applicants in an effort to prevent, prepare and respond to the coronavirus' impact on individuals and families.

Placing Mainstream NED eligible families referred by ECHO, Integral Care, or ARCIL, or by direct application with necessary supplemental documentation on HACA's HCV waiting list:

Those eligible applicants on the current waiting list will have priority over families not on the waiting list. If additional funding is available, and all eligible families on the waiting list are exhausted, the waiting list will remain open for Mainstream NED eligible families. Eligibility for the Mainstream NED vouchers will be based on the respective HUD Notice of Funding. When HACA receives a completed application and referral from ECHO, Integral Care, ARCIL, or necessary supplemental documents, the applicant will be placed on the waiting list after all lottery applicants and in order according to the date and time when HACA first had received both documents.

If a family coded as Mainstream NED ceases to meet the criteria for Mainstream

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HACA Policy

HACA will conduct briefings individually, in groups, by phone or by a virtual method. Briefings will be conducted in group meetings.

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The head of household is required to attend the briefing.

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

Briefings will be conducted in English. For Limited English Proficient (LEP) applicants, HACA will provide translation services in accordance with HACA's LEP plan (See Chapter 2).

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Notification and Attendance

HACA Policy

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

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

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. HACA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without HACA approval, will be denied assistance (see Chapter 3).

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

How the Housing Choice Voucher program works;

Family and owner responsibilities;

Where the family can lease a unit, including renting a unit inside or outside HACA's jurisdiction;

- An explanation of how portability works. HACA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- HACA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance
- The advantages of areas that do not have a high concentration of low-income families.

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.

HACA Policy

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

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.

HACA may conduct initial inspections by a HUD approved virtual inspection protocol.

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Timing of Initial Inspections

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 days of submission of the Request for Tenancy Approval (RTA). The 15-day period will be suspended for any period during which the unit is not available for inspection.

Inspection Results and Re-inspections

HACA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies. HACA will re-inspect the unit within 5 business days of the date the owner notifies HACA that the required corrections have been made.

No timeframe will be given to correct the deficiencies. However, if the deficiencies are not corrected in a reasonable timeframe, and the family decides to reject the unit, HACA will notify the owner that the unit has been rejected and that the family must search for another unit.

Utilities

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

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[Form HUD-52580]

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 5 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 conduct the annual/biennial inspection by a HUD approved virtual inspection protocol method.

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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 10 business days of the originally scheduled date. HACA may schedule an inspection more than 10 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 HACA approval, HACA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

HACA will conduct a special inspection if the owner, family, or another source reports HQS violation in the unit. If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

HACA Policy

The owner and family are required to provide maintenance request in writing to the other party prior to requesting a special inspection. Excluding life threatening conditions, a reasonable amount of time must be provided to respond to, and complete the repairs. Requests for special inspections need to be made in writing explaining the reason for the request and include a copy of the written maintenance request submitted to the other party.

During a special inspection, HACA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 60 days of the date the special inspection is scheduled, HACA may elect to conduct a full annual inspection.

HACA may conduct special inspections by HUD approved virtual inspection protocol method.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a HACA supervisor or other qualified person to conduct quality control

inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

HACA Policy

The Inspections Manager, or other designated qualified person will conduct the Quality Control Inspection.

Quality Control Inspections will be selected at random from HQS inspections that have been completed within the last 60 days.

The Quality Control Inspection will be scheduled with the tenant. QC Inspections will be conducted with the tenant's permission and at the tenant's convenience during normal business hours. If the tenant is unable or unwilling to schedule a QC Inspection, another inspection will be selected.

During the Quality Control Inspection, The HQS Quality Control Inspection form and the Quality Control Unit Inspection form will be completed. Completed QC Inspections will be tracked in the QC Database and supporting documentation will be maintained in the QC Inspection File.

HACA may conduct quality control inspections by HUD approved virtual inspection protocol method.

8-ILF. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

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

HACA Policy

When life-threatening deficiencies are identified, HACA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of HACA's notice.

When non-life threatening deficiencies are identified, HACA will send the owner and the family a written notification of the inspection results within 3 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Corrections need to be made within 30 days.

The notice of inspection results will inform the owner that if life-threatening conditions

are not corrected within 24 hours, and non-life threatening conditions are not corrected within 30 days (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA Policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame, the family's assistance will be terminated in accordance with PHA Policy (see Chapter 12).

Extensions

For conditions that are life-threatening, HACA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, HACA may grant an exception to the required time frames for correcting the violation, if HACA determines that an extension is appropriate [24 CFR 982.404].

HACA Policy

Extensions will be granted in cases where HACA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 30 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible.

The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

HACA Policy

HACA will schedule a re-inspection within 5 business days of the notification by the owner or family that the deficiencies have been corrected.

The family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected at the time of the re-inspection, the owner and family will be notified via telephone, facsimile, or email. If HACA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, HACA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

HACA may conduct re-inspections by HUD approved virtual inspection protocol

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method..

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, HACA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by HACA, HUD requires HACA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

HACA Policy

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

HACA will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period, the family continues to be responsible for their share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

HACA must decide how long any abatement period will continue before the HAP contract will be terminated. HACA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. HACA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

HACA Policy

The maximum length of time that a HAP contract may be abated is 90 days. However, if the owner completes corrections and notifies HACA before the termination date of the HAP contract, HACA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

A 30-day notice to terminate the HAP contract will be provided.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by HACA (and any extensions), HACA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner

Notification of and Participation in the Annual Reexamination Process

HACA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of HACA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

HACA Policy

Annual reexamination

HACA may choose to conduct annual reexaminations in person, by mail, ~~by phone.~~ or through an on-line certification process ~~or other virtual method.~~ Notification of the annual reexamination will be sent by mail, email or through the certification portal. Documents will be accepted by mail, by fax, email, though the on-line certification portal, DocuSign-or in-person.

If the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

If the family is unable to attend a scheduled interview, the family should contact HACA at least 2 business days in advance of the interview to schedule a new appointment or request an alternative reexamination method. If a family does not attend the first scheduled interview, HACA will automatically send a second reexamination notification with a new interview appointment time.

If a family fails to attend two scheduled reexamination interviews without HACA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination will be sent to the family's address of record in accordance with the policies in Chapter 12.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and HACA must execute a certification attesting to the role and the assistance provided by any such third party.

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to HACA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

HACA Policy

Each participant will re-certify using HACA's current recertification form or other format required by HACA.

Families must bring all required information.

Repayment of Family Debts

HACA Policy

If a family owes amounts to HACA, as a condition of continued occupancy, HACA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from HACA of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits HACA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

HACA Policy

HACA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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

Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises. After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

Failure by the family to accept the offer of a new lease or revision;

The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit;

A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

13-II.G. FORECLOSURE [Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

HACA Policy

If a property is in foreclosure, HACA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

HAC will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

HACA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that HACA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, HACA will either use the funds to pay:

The utilities that are the owner’s responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, HACA shall notify the owner within a reasonable time after making the utility payment; or

For the family’s reasonable moving costs, including security deposit costs.

HACA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant’s rights and enforcement of the successor in interest’s performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

**CHAPTER 14
PROGRAM INTEGRITY INTRODUCTION**

HACA is committed to ensuring that subsidy funds made available to HACA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures HACA must and may take when errors or program abuses are found.

**PART I: PREVENTING, DETECTING, AND
INVESTIGATING ERRORS AND PROGRAM
ABUSE**

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”

Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

HACA Policy

To ensure that HACA’s HCV program is administered effectively and according to the highest ethical and legal standards, HACA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

further adjustments if it determines that rent burdens for assisted families in HACA's jurisdiction are unacceptably high [24 CFR 982.503(g)].

HACA Policy

HACA will review the appropriateness of the payment standards on an annual basis when the new FMRs are published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" HACA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: HACA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served.

Average rental amounts for unassisted units – HACA will review the average rental amounts from HACA's available units list and Multiple Listing Service for leased units.

Any changes to payment standard amounts will be approved by the Board of Commissioners and the effective date will be provided in writing to staff and program participants.

Exception Payment Standards [24 CFR 982.503(c)(5), Notice PIH 2018-01]

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to SAFMRs@hud.gov to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]

PHAs that administer vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

HACA Policy

HACA will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain zip code areas.

Exception Payment Standards [982.503(e)]

The HACA must request HUD approval to establish payment standards that are higher than the

applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

HACA Policy

A request for an informal review must be made in writing and delivered to HACA either in person or by first class mail, by the close of the business day, no later than 15 calendar days from the date of HACA's denial of assistance.

HACA will schedule and send written notice of the informal review within 30 calendar days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of HACA.

HACA Policy

The informal review will be conducted by an appointed Hearing Officer who is a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of HACA.

The Hearing Officer will render a decision on whether assistance should be granted or denied.

Remote Informal Reviews

All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations.

HACA Policy

HACA has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, HACA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. HACA will consider other reasonable requests for a remote informal review

on a case-by-case basis.

Conducting Remote Informal Reviews

HACA must ensure that the applicant has the right to hear and be heard.

HACA Policy

HACA will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via videoconferencing, HACA will ensure that all applicants, applicant representatives, HACA representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen). If any applicant, applicant representative, HACA representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.

Whether the informal review is to be conducted via videoconferencing or telephone call-in, the HACA will provide all parties login information and/or conferencing call-in information before the review.

HACA determination not to approve an extension ~~or suspension~~ of a voucher term

HACA determination not to approve a unit or tenancy

HACA determination that a unit selected by the applicant is not in compliance with the HQS

HACA determination that the unit is not in accordance with HQS because of family size
A determination by HACA to exercise or not to exercise any right or remedy against an owner under a HAP contract

HACA Policy

HACA will only offer participants the opportunity for an informal hearing when required to by the regulations.

Remote Informal Hearings

HACA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all HACA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.

HACA Policy

HACA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, HACA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. HACA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Conducting Informal Hearings Remotely

In conducting any informal hearing remotely, HACA shall ensure due process and that all parties are able to have full access to the hearing.

HACA Policy

HACA will conduct remote informal hearings via telephone conferencing call-in or via videoconferencing. If the informal hearing will be conducted via videoconferencing, the HACA will ensure that all participants, participant representatives, advocates, witnesses, HACA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).

If any participant, representative, advocate, witness, HACA representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted by telephone conferencing call-in.

Whether the informal hearing is to be conducted via videoconferencing or telephone call-in, HACA will provide all parties login information and/or telephone call-in information before the hearing. HACA will also provide technical assistance, if needed, before the informal hearing.

The family will be allowed to copy any documents related to the informal hearing at a cost of \$.10 per page. The participant or representative must present any documents relevant to the informal hearing at the informal hearing or as requested by HACA, otherwise, the family may not rely on the documents at the informal hearing.

If the hearing will be conducted remotely, HACA will compile a hearing packet, consisting of all documents HACA intends to produce at the informal hearing. HACA will mail copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of HACA'S representative and retained by HACA.

Documents will be shared electronically whenever possible.

The HACA hearing procedures may provide that HACA must be given the opportunity to examine at the HACA offices before the hearing any family documents that are directly relevant to the hearing. HACA must be allowed to copy any such document at the HACA's expense. If the family does not make the document available for examination on request of HACA, the family may not rely on the document at the hearing.

HACA Policy

For in-person hearings, HACA may require pre-hearing discovery by HACA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, HACA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing. HACA will scan and email copies of these documents to the hearing officer and the HACA representative the same day.

Documents will be shared electronically whenever possible.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At their own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by HACA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

HACA Policy

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-I.B) and at annual reexamination. HACA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

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

HACA is not limited to providing VAWA information at the times specified in the above policy. If HACA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

HACA Policy

Whenever HACA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, HACA may decide not to send mail regarding VAWA protections to the victim's unit if HACA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, HACA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

Notification to Owners and Managers

While PHAs are no longer 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

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; Notice PIH 2017-21;
24 CFR 983.51(b)]**

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 attach PBV assistance non-competitively without following one of the two processes above.

~~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. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the PHA entered into the AHAP or HAP.

- If the PHA is planning rehabilitation or new construction on the project, a minimum threshold of \$25,000 per unit in hard costs must be expended.

- If the PHA plans to replace public housing by attaching PBV assistance to existing housing in which the PHA has an ownership interest or control, then the \$25,000 per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.
- 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.
-
- *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.~~

HACAPHA Policy

HACA is currently undertaking a complete redevelopment and expansion of its Chalmers Courts public housing property in east Austin. In accordance with HUD requirements, this redevelopment and expansion will exceed the required minimum of \$25,000 in per unit hard costs. This property is a high priority for HACA – it is in an area of expanding opportunity that is rapidly gentrifying and where there is a significant need for additional affordable housing to meet the needs of current residents of the area and others moving to Austin. The first phase of the redevelopment is the construction of 86 new affordable housing units south of the existing Chalmers Courts site (Chalmers South). HACA may elect to project-base vouchers not to exceed 43 units at Chalmers South or no more than half of the total units at Chalmers South. Once complete, HACA will relocate residents from either the east or west side of the existing Chalmers Courts site, minimizing displacement and disruption to families. A redevelopment will then begin on either the east or west side of the site. The exact order of redevelopment is dependent on the financing tools which ultimately will be available, including use of the Low Income Housing Tax Credit program.

The east side and west side redevelopments of Chalmers Courts will involve the construction of approximately 160 units on each side. Once fully completed, the new Chalmers Courts – south, west and east – will total approximately 400 units, significantly helping address Austin’s affordable housing needs.

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;

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

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

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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

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;

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, FR Notice 1/18/17 and Notice PIH 2017-21]

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. ~~This also applies to non-competitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections. 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~~

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

~~Perform specific functions with respect to rent determinations and inspections.~~

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

HACA Policy

HACA may submit a proposal for project-based housing that is owned or controlled by HACA or its subsidiary. If the proposal for HACA-owned or controlled housing is selected, the HUD field office or a HUD-approved independent entity will review the selection process to determine if the HACA owned or controlled units were appropriately selected based on the selection procedures specified in HACA's administrative plan.

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

17-I.E. SUBSIDY LAYERING REQUIREMENTS [\[24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, Notice PIH 2013-11, and FR Notice 6/25/14/2/28/20\]](#)

~~[\[24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14\]](#)~~

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

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

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be

disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 2/28/20 contains a list of all required documentation.

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

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

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

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

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

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

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

~~The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. 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, FR Notice 1/18/17, and Notice PIH 2017-21]

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

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

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

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project

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.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]]

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.

HACA Policy

HACA 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 units or 25 percent of units.

PHA Policy:

Excepted units will be limited to units for elderly families.

~~The PHA will not provide assistance for excepted units.~~ Beyond that, the PHA will not impose any further cap on the number of PBV units assisted per project.

~~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 described above in Section 17-H.F.~~

17-IL.G. SITE SELECTION STANDARDS**Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards
[24 CFR 983.57(b)]**

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

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

HACA Policy

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

However, HACA will grant exceptions to the 20 percent standard where HACA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

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

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

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

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

housing types are not assisted under the PBV program.

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

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

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

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.

Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]

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. The PHA may not provide assistance on behalf of the family 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, or if the unit passed an alternative inspection.~~

HACA Policy

HACA will not provide assistance on behalf of the family until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

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. ~~The PHA may not provide assistance on behalf of the family 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 or if the unit passed an alternative inspection.~~

PHA Policy

~~The PHA will not provide assistance in turnover units until the unit fully complies with HQS.~~

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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.

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

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, 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 or if the unit passed an alternative inspection.

PHA Policy

~~The PHA will not provide assistance in turnover units until the unit fully complies with HQS.~~

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

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

HACA Policy

HACA will inspect on an annual basis a random sample consisting of at least 20 percent

of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. If more than 20% of the annual sample fails the annual inspection, HACA shall re-inspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

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

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

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

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

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

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**17-IV.A. OVERVIEW [24 CFR 983.151]**

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

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

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

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter

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 and Notice PIH 2017-21]

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.

~~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 and will not be rescreened under tenant selection and eligibility criteria. 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 and Notice PIH 2017-21]

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.

assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

HACA Policy

HACA will make utility reimbursements payments directly to the family.

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

Meals and Supportive Services

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

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

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

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

Date: [Enter the date on which this form was completed]

DEVELOPMENT INFORMATION

Development Name: [Insert name of PBV development]

Address: [Insert full address of PBV development]

Owner Information: [Insert PBV development owner name and contact information. If development is PHA-owned, enter “PHA-owned.”]

Property Management Company: [Insert property management company name and contact information, or enter “None”]

PHA-Owned: [Enter “Yes” or “No.” If yes, enter name of independent entity]

Mixed Finance Development: [Enter “Yes” or “No.” If yes, list other types of funding and units to which other funding applies.]

HAP CONTRACT

Effective Date of Contract: [Enter start date of HAP contract]

HOTMA Requirements: [If HAP contract was signed prior to April 18, 2017, enter “Pre-HOTMA.” If HAP contract was signed on or after April 18, 2017, enter “Post-HOTMA.”]

Term of HAP Contract: [Enter term from HAP contract]

Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV UNITS

	<u>0 BR</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>	<u>5 BR</u>	<u>Total</u>
<u># of Units</u>							
<u>Initial Contract Rent</u>	\$	\$	\$	\$	\$	\$	

Accessible Units and Features: [Identify which units are accessible and describe accessibility features or enter “None”]

Target Population: [Describe targeted population in accordance with HAP contract or enter “None”]

Excepted Units: [Identify excepted unit types below or enter “None”]

Supportive Services: [Enter “Yes, see Exhibit D of HAP Contract” or enter “No”]

Elderly Units: [Enter “Yes” or “No.” If yes, identify which units are elderly units.]

Disabled Units (only for HAP contracts executed prior to April 18, 2017) [Enter “Yes” or “No.”
If yes, identify which units are for persons with disabilities.]

Are units excepted because they are located in a low-poverty census tract area?: [Enter
“Yes” or “No”]

WAITING LIST AND SELECTION

Waiting List Type: [Enter “Site-based waiting list,” “Combined with HCV,” “Waiting list for
entire PBV program,” or “Merged with another assisted housing program”]

Preferences: [Enter “Same as HCV; see Chapter 4” or describe preferences offered. If different
from HCV, also note in Section 17.1.B of this policy.]

Preference Verification: [Enter “Same as HCV; see Chapter 4” or describe for each preference
listed above. If different from HCV, note in Section 17.1.B of this policy.]

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed
finance developments, other income limits may also apply.) [Enter “Same as HCV; see Chapter
3” or clearly describe. If different from HCV, note in Section 17.1.B of this policy.]

OCCUPANCY

Subsidy Standards: [Enter “Same as HCV; see Chapter 5” or describe. If different from HCV,
note in Section 17.1.B of this policy]

Utilities: [Enter in accordance with HAP contract Exhibit C]

Vacancy Payments: [Enter in accordance with HAP contract Part 1, e, 2 and Section 17-V.F.
within this chapter]

EXHIBIT 17-2: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units

[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05. If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family’s unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non-RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

RAD Requirements Applicable to Non-RAD units in the Project

<u>Alternative Requirement under RAD as Listed in Notice PIH 2019-23</u>	<u>Standard PBV Policy That Does Not Apply</u>	<u>Applicable Policy in Chapter 18</u>
<u>1.6.A.4. Site Selection – Compliance with PBV Goals</u>	<u>17-II.G. SITE SELECTION STANDARDS applies with the exception of</u>	<u>18-II.F. SITE SELECTION STANDARDS</u>

	<u>deconcentration of poverty and expanding housing and economic opportunity requirements.</u>	
<u>1.6.B.5.d. PBV Site-Specific Utility Allowances</u>	<u>Alternative requirement under RAD. No corresponding policy in Chapter 17.</u>	<u>18-VII.C. UTILITY ALLOWANCES</u>
<u>1.6.C.1. No Rescreening of Tenants upon Conversion</u>	<u>Policies contained in Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs.</u>	<u>18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION</u>
<u>1.6.C.2. Right to Return</u>	<u>Alternative requirement under RAD. No corresponding policy in Chapter 17.</u>	<u>18-I.D. RELOCATION REQUIREMENTS</u>
<u>1.6.C.3. Phase-in of Tenant Rent Increases</u>	<u>Alternative requirements under RAD. No corresponding policy in Chapter 17.</u>	<u>18-VIII.D. PHASE-IN OF TENANT RENT INCREASES</u>
<u>1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs</u>	<u>Not covered in administrative plan.</u>	<u>18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS</u>
<u>1.6.C.5. Resident Participation and Funding</u>	<u>Alternative requirement under RAD. No corresponding policy in Chapter 17.</u>	<u>18-VI.D. RESIDENT PARTICIPATION AND FUNDING</u>
<u>1.6.C.6. Resident Procedural Rights</u>	<u>Policies related to hearings in Chapter 16 apply, with added</u>	<u>18-VI.H. RESIDENTS' PROCEDURAL RIGHTS</u>

	<u>procedural rights and notice requirements as outlined in Chapter 18.</u>	
<u>1.6.C.7. Earned Income Disregard (EID)</u>	<u>Alternative requirements under RAD for in-place residents.</u> <u>New admissions follow policies in Chapter 6.</u>	<u>18-VI.G. EARNED INCOME DISALLOWANCE</u>
<u>1.6.C.8. Jobs Plus</u>	<u>Not covered in administrative plan.</u>	<u>No corresponding policy.</u>
<u>1.6.C.9. When Total Tenant Payment Exceeds Gross Rent</u>	<u>Alternative requirements under RAD for in-place residents.</u> <u>New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments.</u>	<u>18-VI.B. LEASE, Continuation of Housing Assistance Payments</u>
<u>1.6.C.10. Under-Occupied Unit</u>	<u>Alternative requirements under RAD for in-place residents.</u> <u>New admissions follow 17-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units</u>	<u>18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units</u>
<u>1.6.D.4. Establishment of Waiting List</u>	<u>Alternative requirements under RAD for initial establishment of the waiting list.</u> <u>Once waiting list is established, follow 17-VI.D. SELECTION</u>	<u>18-V.D. ORGANIZATION OF THE WAITING LIST</u>

	<u>FROM THE WAITING LIST</u>	
<u>1.6.D.10. Initial Certifications and Tenant Rent Calculations</u>	<u>Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 17.</u>	<u>18-VIII.C. TENANT RENT TO OWNER, Initial Certifications</u>

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.