



Administrative Plan

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Table of Contents

CHAPTER 1- Program Authority and Objectives	12
1.1 Applicable Regulations.....	12
1.2 BHA Mission	12
1.3 Purpose of the Administrative Plan	12
1.4 Approval of Plan and Use of Administrative Fee Reserves.....	12
CHAPTER 2 - General Administrative Provisions and Policies	14
2.1 Confidentiality and Privacy Policy.....	14
2.2 Record Retention Policy	14
CHAPTER 3 - General Fair Housing Policies.....	15
3.1 Nondiscrimination Policy	15
3.2 Complying with Civil Rights Laws	15
3.3 Owner Nondiscrimination Requirements	16
3.4 Family Outreach and Affirmative Marketing	16
3.5 Owner Outreach.....	17
3.6 Language Assistance Plan and Limited English Proficiency Policy	17
LEP Options	18
3.7 Reasonable Accommodation Policy.....	18
Legal Authority.....	19
Definition of Disability	19
Examples of Reasonable Accommodations	19
3.8 Live in Aide Policy.....	19
3.9 Physical Impairment Policy	20
3.10 Violence against Women Reauthorization Act Policy (VAWA)	20
VAWA - Notification of Rights.....	21
VAWA - Confidentiality	21
VAWA - Documentation.....	21
VAWA Lease Bifurcation	22

Limitation On VAWA Protection	23
CHAPTER 4 - Applying to the Program and Waiting List.....	24
4.1 Application Process	24
4.2 Opening and Closing the Waiting List	25
4.3 Maintaining the Waiting List.....	25
4.4 Updating the Waiting List	26
4.5 Change in Circumstances	26
Preference Status.....	26
Change to the Family Composition.....	26
4.6 Local Preferences	27
4.7 Assistance Targeted by HUD	28
4.8 Continuously Assisted Families	28
4.9 Relocation of Witnesses and Victims of Crime	28
4.10 Income Targeting Policy	28
4.11 Waiting List Placement	29
4.12 Selection from the Waiting List Notification.....	29
CHAPTER 5 - Initial and Continuing Eligibility	31
5.1 Qualifications for Admission	31
Income Eligibility	31
Social Security Number Disclosure	32
Citizenship Requirements	32
Consent Form Requirements	33
5.2 Family Definition	33
Head of Household	34
Joint Custody.....	34
Family Break Up	34
Remaining Family Member	35
5.3 Student Head of Household	36

5.4 Guests/Visitors	36
5.5 Eligibility Interview	37
Rescheduling the Eligibility Interview	37
Eligibility Notification	38
5.6 Criminal Background Policy.....	38
Drug Abuse Treatment Information	39
5.7 Duplicative Assistance.....	39
5.8 Absences from the Unit	40
Absent Family Member.....	40
Absence of Entire Family	40
Absent Student	41
Absences Due to Placement in Foster Care	41
Caretaker for a Child	41
Absent Head or Spouse Due to Employment	41
Individuals Absent for Medical Reasons	42
CHAPTER 6 - Tenant Rent and Housing Assistance Payment Calculation	43
6.1 Definition of Income	43
Alimony and Child Support	44
Sporadic income.....	44
Regular Contributions and Gifts.....	44
Incremental Earnings	45
6.2 Earned Income Disallowance (EID) Policy.....	45
Disallowance of Earned Income.....	45
6.3 Business Income.....	46
Business Expansion	46
Capital Indebtedness	46
Acceptable Investments.....	46
Co-Owned Businesses	47

Jointly Owned Assets	47
Disposed Assets	47
Checking and Savings Accounts	48
Investments.....	48
Real Property, Personal Property, Other Capital Investments	48
6.5 Lump Sum Payments.....	49
Prospective Calculation Methodology.....	49
Retroactive Calculation Methodology	50
Attorney Fees.....	50
6.6 Excluded Income	50
Excluded Periodic Payment.....	51
Income from Training Programs	51
6.7 Deductions from Income	52
Anticipating Expenses	52
Medical and Dental Expenses	52
Disability Assistance Expenses.....	52
Both Medical and Disability Expenses	53
Child Care	53
Permissive Deductions.....	54
BHA has not adopted any permissive deductions.	54
6.8 Anticipating Income	55
6.10 Total Tenant Payment and HAP	56
Payment Standards.....	57
Utility Allowances and Utility Reimbursements.....	57
Welfare Rent	58
6.11 Minimum Rent and Hardship Exemptions.....	58
CHAPTER 7 - Request for Tenancy Approval and Leasing.....	61
7.1 Information to Owners	61

7.2 Allowable Housing Types	61
7.3 Request for Tenancy Approval (RFTA)	62
Tenancy Addendum	63
Dwelling Lease	63
7.4 Voucher Term.....	64
Voucher Extensions.....	64
Voucher Suspension.....	64
7.5 Subsidy Standards	64
Subsidy Standards Chart	65
Exceptions to Subsidy Standards	66
Unit Size Selected by Family	66
Under-Housed and Over-Housed Families	66
7.6 Security Deposit	66
7.7 Separate Agreements	67
7.8 Initial Rent Burden	67
7.9 Disapproval of RFTA	67
7.10 Owner Disapproval.....	67
CHAPTER 8 - Housing Quality Standards and Inspections and Rent Reasonableness.....	70
8.1 Initial Inspections	70
8.2 Biennial HQS Inspections	71
8.3 Special Inspections.....	71
8.4 Quality Control Inspections.....	71
8.5 Scheduling Inspections and Family Attendance	71
Missed and Rescheduled Inspections	72
8.6 Emergency Inspections	72
8.7 HQS Certifications	73
8.8 Extensions	74
8.9 Family Responsibilities	74

8.10 Owner Responsibilities.....	75
8.11 Rent Reasonableness	75
Decreases in the Fair Market Rent:	75
Methodology.....	76
CHAPTER 9 - Housing Assistance Payment Contract	77
9.1 HAP Payments.....	77
9.2 Owner Rent Increases	78
9.3 Unit Ownership Changes.....	78
9.4 HAP Contract Terminations	79
CHAPTER 10 - Verifications	81
10.1 Methods of Verification	81
EIV Verification Process	81
Third Party Written Verifications.....	82
Third Party Oral Verifications.....	82
Tenant Declaration	82
10.2 Eligibility Verifications.....	83
10.3 Legal Identity Verification	83
Marriage Verification	84
Separation or Divorce Verification.....	84
Adult Member Absence Verification	84
Foster Children and Foster Adults Verification.....	84
Student Status Verification	84
Student Head of Households	84
Disabled Status Verification	85
US Citizens and Nationals	85
10.4 Verification of Income.....	85
Wage Verification	86
Tip Income Verification	86

Bonus Income Verification	86
Business and Self Employment Income Verification	86
Social Security and SSI Benefits Verification	87
Alimony and Child Support Verification	87
Zero Income Verification	87
Student Financial Assistance	88
10.5 Verification of Assets	88
Assets Disposed of for Less Than Fair Market Value Verification	88
Income from Rental Verification.....	89
Retirement Account Verifications.....	89
10.6 Verification of Expenses.....	89
Expenses.....	89
Disability Assistance Expenses	90
Child Care Expense Verification	90
CHAPTER 11 – Ongoing Program Operations	92
11.1 Annual Re-Certifications	92
Streamline Verification for Fixed Income	92
11.2 Interim Reexaminations.....	93
Changes to Household Composition.....	93
Household Member Removals	94
Changes Affecting Income or Expenses	94
BHA-Initiated Interim Re-Examinations.....	94
Interim Re-Examination Effective Date	95
11.3 Family Moves	95
Denial of Moves	96
Duplicate Housing Assistance Payments with a Move	97
11.4 Portability.....	97
Outgoing Portability.....	97

Incoming Portables	98
CHAPTER 12 - Denial of Assistance to Applicants and Termination of Assistance to Participants 99	
12.1 Evidence and Considerations	99
12.2 Denial of Assistance	100
12.3 Notice of Denial.....	102
12.4 Denial of Assistance for Noncitizens.....	102
12.5 Grounds for Termination	103
Family Self-Sufficiency (FSS) Participants	107
12.6 Termination Notification.....	107
12.7 Removal of a Family Member from the Application	107
12.8 Reasonable Accommodation Related to Denials or Terminations.....	108
12.9 Repayment Agreements	108
Repayment Agreement Options	108
Creating and Reporting Tenant Repayment Agreements	109
Rules Governing Payments and Changes to Existing Agreements	109
CHAPTER 13 - Informal Reviews and Informal Hearings	110
13.1 Informal Review Policy.....	110
13.2 Informal Hearing Policy.....	111
13.3 Conducting Informal Hearings	112
Hearing Decision	112
Rights of the Applicant/Participant and BHA	112
Review/Hearing Process	113
Decisions Not Binding to BHA	114
Hearing Provisions for Restrictions on Assistance to Non-Citizens.....	114
13.4 USCIS Determination of Ineligibility.....	114
CHAPTER 14 - Program Integrity.....	116
14.1 Detecting Errors and Program Abuse	116

14.2	Consideration of Remedies	116
14.3	Family Prohibited Actions	117
14.4	BHA Prohibited Activities	117
14.6	Owner Prohibited Activities	118
	Owner Remedies and Penalties	119
	Corrections to Subsidy Payments	119
CHAPTER 15 - Project Based Vouchers		121
15.1	Overview	121
15.2	Proposal Selection.....	121
	BHA Request for Proposals Method for Rehabilitated and Newly Constructed Units.....	121
	BHA Requests for Proposals for Existing Housing Units	122
	BHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program	122
15.3	Notice of Owner Selection	123
15.4	Agreement to Enter into HAP Contract	123
15.5	Site Selection Standards.....	123
	BHA Owned Units.....	124
	Eligible Units/Cap on PBV Units	124
15.6	Uniform Relocation Act.....	124
15.7	Housing Assistance Payments (HAP) Contracts	125
	Term of the HAP Contract.....	125
	Extending the HAP Contact.....	125
	Amendments to the HAP Contract	125
15.8	Unit Inspections	125
	Lead based Paint	126
15.9	Initial Rent and Rent Increases	126
	Initial Rent.....	126
	Rent Increases.....	126

15.10 Tenant Selection	127
Properties Converted through the Rental Assistance Demonstration	128
15.11 Repayment Agreement in BHA Owned Properties	128
15.12 Unit Moves/Transfers	128
Overcrowded, Under-Occupied, and Accessible Units	128
Moves Requested by the Tenant	129
Moves from Excepted Units	129
Required Moves	129
Program Move of Participants	130
Choice-Mobility	130
15.13 Vacancy Payments	131
15.14 Resident Rights under RAD	131
Right to Return	132
Renewal of Lease	132
Resident Participation and Funding	132
Earned Income Disregard (EID)	132
Termination Notification	132
Grievance Process	133

CHAPTER 1- Program Authority and Objectives

Link: [United States Housing Act of 1937](#)

The Housing Authority of the City of Biloxi, Mississippi (BHA) manages the Housing Choice Voucher (HCV) Program and other housing programs in the geographic area covering the city of Biloxi and areas within five miles of the city limits. Through its assisted housing programs, eligible families are provided the opportunity to obtain decent, safe and sanitary housing.

Administration of BHA's Housing Programs and the functions and responsibilities of BHA staff are in compliance with BHA's policies and procedures, the Department of Housing and Urban Development's (HUD) regulations, and all applicable Federal, State and local fair housing laws.

1.1 Applicable Regulations

- [24 CFR Part 5](#): General Program Requirements
- [24 CFR Part 8](#): Nondiscrimination
- [24 CFR Part 903](#): Public Housing Agency Plans
- [24 CFR Part 982](#): Section 8 Tenant Based Assistance
- [24 CFR Part 983](#): Project Based Vouchers
- [24 CFR Part 985](#): Section 8 Management Assessment Program
- [24 CFR Part 100](#): Discriminatory Conduct Under the Fair Housing Act

1.2 BHA Mission

The Biloxi Housing Authority will develop, support and sustain, safe quality affordable housing communities, and to encourage self-sufficiency.

1.3 Purpose of the Administrative Plan

The Administrative Plan (Plan) establishes policies for implementation and administration of the Housing Choice Voucher Program administered by the BHA. The Plan covers both admission to and continued participation in the Tenant Based, Project Based and Rental Assistance Demonstration/Project Based Voucher (RAD/PBV) Housing Choice Voucher programs.

Issues not addressed in this document related to applicants, participants and owners are governed by the Department of Housing and Urban Development Code of Federal Regulations, HUD guidance, or other applicable law. When circumstances arise and are not addressed by provisions in this Plan, they will be reviewed on a case-by-case basis. If a conflict arises between or among the regulations identified in this Plan, the regulations specifically stated for the applicable program will take precedence.

1.4 Approval of Plan and Use of Administrative Fee Reserves

Only the BHA Board of Commissioners is authorized to approve changes to the Administrative Plan and changes to Board approved operating budgets which utilize administrative fee reserves.

Expenditures from the administrative fee reserve will be made in accordance with the BHA Procurement Policy and applicable Federal and State requirements. Expenditures from the administrative fee reserve of the HCV program in excess of \$100,000 for Federal programs and \$50,000 for State programs will be approved by the BHA Board.

CHAPTER 2 - General Administrative Provisions and Policies

2.1 Confidentiality and Privacy Policy

Link: [24 CFR 5.212](#); [HUD Form 9886](#)

It is the policy of BHA to guard the privacy of applicants and participants and ensure the protection of records in accordance with the Privacy Act of 1974. BHA will not disclose any personal information (including, but not limited to information on any disability) contained in its records to any person or agency unless the individual about whom the information is requested gives written consent to such disclosure, or as required by law.

This privacy policy does not limit BHA's ability to collect such information as it may need to determine eligibility, compute housing assistance, and does not prohibit the BHA from disclosing information to local law enforcement if the participant is suspected of being involved in criminal or illegal activity.

All applicant and participant information will be kept in secure locations and access will be limited to authorized BHA staff. BHA staff will not discuss personal family information unless there is a business reason to do so.

2.2 Record Retention Policy

Link: [24 CFR 908.101](#); [24 CFR 35 Subpart B](#)

The BHA will keep all documents related to a family's eligibility, tenancy, and termination in accordance with HUD requirements and BHA's Records Retention and Disposition policy.

CHAPTER 3 - General Fair Housing Policies

3.1 Nondiscrimination Policy

Links: [Fair Housing Act \(42 U.S.C\)](#); [Section 504 of the Rehabilitation Action of 1973](#); [Joint Statement of HUD and DOJ 5/17/14](#) and [24 CFR 982.54\(d\) \(6\)](#); [982.301\(b\) \(10\)](#); [982.304](#)

BHA provides information regarding Fair Housing and discrimination in housing on its website, in outreach materials, posters at its office, in the family briefing session and program packets, and owner meetings. When needed, BHA will also assist with how to fill out and file a housing discrimination complaint.

3.2 Complying with Civil Rights Laws

It is the policy of the BHA to comply with all federal, state and local non-discrimination laws, rules and regulations governing fair housing and equal opportunity in housing and employment now in effect and subsequently enacted, including, but not limited to:

- [Title VI of the Civil Rights Act of 1964](#), which forbids discrimination on the basis of race, color, religion, national origin or sex.
- [Title VIII of the Civil Rights Act of 1968](#) (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on disability and familial status, and spell out forms of prohibited discrimination
- [Executive Order 11063](#) which prohibits discrimination in federally funded housing.
- [Section 504 of the Rehabilitation Action of 1973](#), which describes specific housing rights of persons with disabilities
- [Age Discrimination Act of 1975](#) which prohibits discrimination based on age in programs or activities that receive federal financial assistance
- [Title II of the Americans with Disabilities Act](#), otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units)
- [Violence Against Women Reauthorization Act 2013](#) (VAWA) which provides housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- [Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity](#), also known as the “Equal Access Rule”
- Any applicable State laws or local ordinances that may apply, including those pertaining to Fair Housing or any legislation protecting the individual rights of residents, applicants or staff which may be subsequently enacted

BHA’s housing programs are open to all eligible individuals regardless of sexual orientation, gender identity or marital status. BHA will not inquire about the sexual orientation or gender identity of an applicant or participant for purposes of determining eligibility or otherwise making such housing available. However, the BHA may inquire about a person’s sex in order to determine the number of bedrooms a household may be eligible for under the occupancy standards or to accurately complete HUD’s 50058. The BHA will not discriminate because of race, color, marital status, sexual orientation, national or ethnic

origin or ancestry, sex, religion, age, familial status, source of income, or disability in the leasing, rental, occupancy, use, or other disposition of housing or related facilities.

Upon receipt of a complaint from an applicant or participant alleging a violation of the Equal Access Rule, BHA will determine if a program violation occurred, provide written notice and implement appropriate corrective action(s). BHA may also advise the family to file a Fair Housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

BHA Applicants or BHA participant families who believe that they have been subject to unlawful housing discrimination as noted in Section 3.2 may notify the BHA either orally or in writing. Notifications made orally will be documented in writing by any designated BHA discrimination staff including: complaint description, applicant/participant name, date, and BHA staff taking complaint. The BHA will attempt to remedy discrimination complaints made against the BHA. The BHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

ATLANTA FHEO CENTER
40 Marietta Street
Atlanta, GA 30303
(678) 732-2260
Fax: (404) 331-1021

3.3 Owner Nondiscrimination Requirements

Link: [Form HUD 52641](#); [PIH 2014-20](#)

The BHA requires owners to comply with all applicable laws and statutes. In agreeing to participate in BHA's Housing Choice Voucher programs, the owner must abide by the Housing Assistance Payments (HAP) contract which prohibits discrimination and requires that the owner:

- Not discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, familial status, or disability in connection with the contract; and,
- Cooperate with BHA and HUD in conducting equal opportunity compliance reviews and investigation.

3.4 Family Outreach and Affirmative Marketing

Link: [24 CFR Part 903.2](#) and [24 CFR 903.7](#)

The BHA publicizes and disseminates information concerning the availability and nature of housing assistance to income eligible families. As part of the briefing process and on-going education, BHA will provide information to HCV families about the opportunity to rent in a broad range of neighborhoods including:

- Information on general locations and characteristics of neighborhoods including: shopping centers, bus lines, etc.

- A listing of available rental property, and information provided by owners which may include address, amenities, deposit information, etc.
- A list of properties/owners who accept HCV.
- A description of portability provisions available in the Housing Choice Voucher program.
- A map that identifies areas within the City of Biloxi that are areas of low poverty and minority concentrations.
- Other information as required.

When BHA's waiting list is open, BHA will publicize the availability and nature of housing assistance through a variety of sources including local and State newspapers, social media and BHA webpage, www.biloxihousing.org. Efforts will be made to notify local officials, government agencies, and agencies that specifically address the needs of individuals with disabilities.

3.5 Owner Outreach

BHA encourages program participation by owners of units located outside areas of poverty or minority concentration. BHA provides program information to interested parties on its webpage at www.biloxihousing.org. BHA staff will be available to make presentations about the Housing Choice Voucher Program to these groups. The purpose of these activities is to provide more choices and better housing opportunities to families. Voucher holders are informed of the full range of areas within the BHA's jurisdiction where they may lease units and are given a list of owners who are willing to lease units outside areas of poverty or minority concentration.

BHA is committed to providing good customer service that encourages on-going owner participation in the program. The BHA may conduct periodic meetings with participating owners/landlords to improve owner/landlord relations and to recruit new owners/landlords.

3.6 Language Assistance Plan and Limited English Proficiency Policy

Link: [Federal Register 1/22/07, 24 CFR 1](#)

The BHA is committed to providing meaningful access to its programs and services to all eligible persons, including those who have Limited English Proficiency because of their national origin. BHA will take affirmative steps to communicate with people who need services or information in a language other than English. LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Policy, LEP persons are HCV program applicants and participant families.

BHA has determined that the majority of participants speak either: English, Spanish or Vietnamese. The BHA staff can communicate in: English.

Given very limited resources BHA will not develop a written LEP plan but will consider alternative ways to communicate and provide meaningful access. Every year, as part of BHA's annual plan process, the need for a LEP Plan will be reviewed and a Plan created if needed. The review will assess whether there have been any significant changes in the composition or language needs of the LEP population. The BHA will

analyze the various kinds of contacts it has with the public to assess language needs and decide what reasonable steps should be taken if the costs imposed do not substantially exceed the benefits.

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

LEP Options

- When LEP persons request, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the BHA: the staff communicate in English. The interpreter may be a family member or friend.
- The BHA will utilize a language line for telephone interpreter services.
- BHA will inform applicants and participants of language assistance services.
- BHA will not provide written translation but will provide written notice in the primary language of the LEP language group of the right to receive oral interpretation of those written materials, free of cost. Translation may also be provided orally.

3.7 Reasonable Accommodation Policy

Link: [24 CFR Part 8](#)

This policy applies to applicants and participants. A reasonable accommodation is a change, modification, alteration or adaptation in a policy, procedure, practice, program or facility that is necessary for a qualified individual with a disability to have the opportunity to participate in, and benefit from a program or activity.

BHA will ask all applicants and participant families if they require any type of accommodations, in writing, on the intake application, re-certification documents, and notice of adverse action. The notice will include the name and phone number of the BHA contact person for requests for accommodation for persons with disabilities.

The BHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the BHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. If the request is made orally, the BHA will document the request in writing including: request specifications, family name, date, and BHA staff taking request.

If a person with a disability requests an accommodation to an existing rule, policy, practice, or service in order to fully access and utilize the BHA's housing programs and related services, the BHA will verify and evaluate the request. The BHA is not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden.

Legal Authority

This Policy is in compliance with the statutory BHA listed below:

- [Section 504 of the Rehabilitation Act of 1973](#) (Section 504);
- [Titles II and III of the Americans with Disabilities Act of 1990](#) (ADA);
- [The Fair Housing Act of 1968](#), as amended (Fair Housing Act);
- [The Architectural Barriers Act of 1968](#); and
- [24 C.F. R. Parts 8](#)

Definition of Disability

Person with disabilities is a person who:

- Has a disability, as defined in [42 U.S.C. 423](#); which details disability insurance under the Public Health and Welfare
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - Is expected to be of long continued and indefinite duration;
 - Substantially impedes his or her ability to live independently, and
 - Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
 - Has a developmental disability as defined in [42 U.S.C. 6001](#), which provides definitions under the Statute related to Programs for Individuals with Developmental Disabilities
- Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- For purposes of qualifying for low income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
- Means “individual with handicaps”, as defined in § [8.3](#) of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

Examples of Reasonable Accommodations

- Allowing a larger unit size
- Allowing a live-in aide, with the owner’s approval
- Allowing a service animal, with the owner’s approval
- Alternative measures instead of lease termination
- Rescheduling appointments and/or hearings
- Attendance at a hearing of any other person approved by the BHA
- Permitting an outside agency or family member to assist in an interview or meeting
- Permitting applications and re-certifications to be completed by mail

3.8 Live in Aide Policy

Links: [24 CFR 5.403](#); [24 CFR 8](#); [24 CFR 5.609\(c\)\(5\)](#); [24 CFR 966.4\(d\)\(3\)\(I\)](#)

The BHA will approve a live-in aide if needed for families with an elderly member, or as a reasonable accommodation to make the program accessible to and usable by a family member with disabilities.

Live-in aide means a person who resides with one or more elderly persons or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons
- Is not obligated for the support of the persons, and
- Would not be living in the unit except to provide the necessary supportive services

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and will not be considered a remaining member of a participant family.

A family's request for a live-in aide must be made in writing and is subject to BHA's verification. BHA will verify the request. For continued approval, BHA will verify continued need at each annual re-certification.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is:

- Not obligated for the support of the person(s) needing the care, and
- Would not be living in the unit except to provide the necessary supportive services.

The BHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if the person:

- Does not meet BHA's eligibility criteria
- Would cause the current unit to become overcrowded according to BHA standards and local codes
- Falls under any category listed in this Policy in the Denials of Admission Section

3.9 Physical Impairment Policy

Link: [24 CFR Part 8.6](#)

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication is available at the BHA office.

When visual aids are used in meetings or presentations, one-on-one assistance will be provided upon request.

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

3.10 Violence against Women Reauthorization Act Policy (VAWA)

Link: [Violence Against Women Reauthorization Act 2013](#); [24 CFR 5 Subpart L, PIH Notice 2017-08](#)

This Policy is applicable to all federally subsidized housing administered by BHA. BHA will not discriminate against an applicant or resident on the basis of the rights or privileges provided under the VAWA. This

policy is gender-neutral, and its protections are available to persons who are victims (including affiliated individuals) of domestic violence, dating violence, sexual assault or stalking.

The BHA will not deny admission to the housing choice voucher program to any person because that person is or has been a victim or affiliated individual of domestic violence, dating violence, sexual assault or stalking; provided that such person is otherwise qualified for such admission. In addition to prohibiting a denial, termination, or eviction based on the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, BHA will not deny admission to an applicant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

VAWA - Notification of Rights

The BHA will enclose in each application packet a notice advising applicants of their rights under VAWA. The BHA will notify participants of their rights under VAWA during the annual re-certification process and with any adverse action notice along with a copy of the form HUD form 5380 (Notice of Occupancy Rights); HUD form 5382 (Certification of VAWA).

VAWA - Confidentiality

All VAWA information provided to the BHA, including the fact that an individual is a victim or affiliated individual of domestic violence, sexual assault, dating violence, sexual assault or stalking (VAWA violence); will be retained in confidence, and will not be entered into any shared database or provided to any related entity, except to the extent that disclosure is:

- Requested or consented to by the individual in writing
- Required for use in an eviction proceeding
- Otherwise required by applicable law

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

VAWA - Documentation

When a participant is facing lease termination because of the actions of a family member, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim or affiliated individual of such actions and that the actions are related to VAWA violence, the BHA will request in writing that the individual submit documentation within fourteen (14) business days affirming that claim. The written request will include instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline. BHA may choose to extend the 14 day requirement to provide documentation or may choose to waive the requirement based on the circumstances surrounding the claim.

The individual may satisfy this request by providing any one of the following documents as described under 24 CFR 5.2007(b)(1):

- Form HUD-5382; or
- A document:
 - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:
 - Signed by the applicant or tenant; and
 - That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- A record of a Federal, State, tribal, territorial, or local law enforcement agency (may include a police report), court, or administrative agency; or
- At the discretion of BHA, a statement or other evidence provided by the applicant or tenant.

VAWA Lease Bifurcation

The BHA may request the owner to bifurcate a family’s lease and terminate the tenancy of the culpable family member if the BHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members. In making its decision, the BHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066, HUD-5832) or other documentation of abuse submitted to the BHA by the victim.

If the BHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, policies in this Administrative Plan and the BHA VAWA Procedure. If necessary, the BHA will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the BHA may refer the remaining family members to a victim service provider or other agency with shelter facilities.

Limitation On VAWA Protection

VAWA does not limit BHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that BHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.

VAWA does not limit BHA's authority to terminate the tenancy of any tenant if BHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

In determining whether a tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, BHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat, whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest BHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing or in a court proceeding.

CHAPTER 4 - Applying to the Program and Waiting List

4.1 Application Process

The BHA will announce the reopening of the waiting list by publication with the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. BHA will advertise through a variety of sources including local and State newspapers, the Biloxi Housing Authority Webpage (www.biloxihousing.org) and social media. An effort will also be made to notify elected officials, government agencies and other agencies that specifically address the needs of individuals with disabilities. The BHA will give public notice by publishing the relevant information in suitable media outlets.

Notices will include: the dates, times and locations where families may apply; the method for acceptance of application; the program for which applications will be taken and; a brief description of the program.

No one will be denied the right to submit an application when the HCV waiting list is open. However, depending upon the composition of the waiting list with regard to family types and preferences and to better serve the needs of the community, the BHA may only accept applications from any family claiming preference(s). When the HCV waiting list is open, BHA will offer all applicants the opportunity to apply to other BHA waiting lists, if open.

Accommodations will be made for interested, disabled applicants. In the event that an applicant needs assistance completing or submitting the online application, assistance may be provided over the phone or via other means as identified by BHA.

Completed pre-applications must be submitted online as specified by BHA. BHA reserves the right to accept pre-applications in the manner it deems appropriate. BHA does not charge any fee for any part of the HCV pre-application or application process.

Only those pre-applications received by the due date as indicated by electronic submission verification tool during the time-period specified by BHA will be accepted as eligible pre-applications. The date the pre-application is received is the date it is submitted electronically. During periods of open enrollment, applications can be placed by those with disabilities or those that do not have access to telephones by external organizations that provide human services and or at BHA's designated locations.

An applicant is deemed preliminarily ineligible and not placed on the BHA waiting list if:

- Currently housed in the same program and listed as the head of household or co-head of household.
- The application is incomplete or missing required information.
- The applicant does not meet the age requirement at a senior property.

4.2 Opening and Closing the Waiting List

Link: [24 CFR 982.206](#)

The BHA may at its discretion open and close waiting list.

The decision to close the waiting list will be based on the number of applications on file, the number of anticipated available vouchers and when the estimated waiting period for housing assistance reaches 12 to 18 months.

The BHA will announce the reopening of the waiting list at least 10 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The BHA will give public notice by publishing the relevant information in suitable media outlets.

All notices and advertisements announcing the opening of the waiting list will include:

- The dates the list will be open;
- The means by which applications will be taken (Online ONLY at www.biloxihousing.org)
 - Applicants requiring assistance may request a reasonable accommodation or request assistance at the BHA office.
- Instructions for electronic submission of applications in the event such technology is available.

4.3 Maintaining the Waiting List

The BHA maintains six (6) waiting lists, Tenant-Based Voucher, Affordable Communities (RAD/PBV), Senior Communities (Senior RAD/PBV), Seashore Assisted Living, Beauvoir Pass and VASH.

- a. Tenant-Based Voucher Waiting List – This list is for assistance with housing choice vouchers.
- b. Affordable Communities Waiting List – This list is for project-based assistance at the following sites: Bayview Oaks, Covenant Square, Fernwood Place, McDonnell Avenue Apartments, Oakwood Village and Suncoast Villas
- c. Senior Communities Waiting List – This list is for project-based assistance at the following sites: Seashore Oaks and Gulf Shore Villas. Applicants must be 50 years old or older.
- d. Seashore Oaks Assisted Living Waiting List – This list is for project-based assistance at the Seashore Oaks Assisted Living Facility. Applicants must be 50 years old or older.
- e. Beauvoir Pass Waiting List – This list is for project-based assistance at Beauvoir Pass.
- f. VASH Waiting List – This list is for housing choice voucher assistance with referral from the US Department of Veterans Affairs.

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

- Name and address of head of household
- Number of family members
- Social security number (head of household)
- Amount and source of annual income

- Date and time of application or randomized wait list selection number if by lottery
- Preference points

4.4 Updating the Waiting List

The waiting list will be updated as needed to ensure that all applicant information is current. The update letter will state that failure to respond will result in the applicant being removed from the waiting list without further notice. The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the BHA not later than 10 calendar days from the date of BHA's letter. If the family fails to respond within 10 calendar days, the family will be removed from the waiting list without further notice. If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the BHA from making an eligibility determination; therefore, no informal hearing is required. If the family is removed from the waiting list for failure to respond, the family may be reinstated if BHA determines the lack of response was due to BHA error or to circumstances beyond the family's control.

Notices will be made available in accessible format upon the request of a person with a disability. An extension to reply to the update notification will be considered as a reasonable accommodation if requested by a person with a disability.

4.5 Change in Circumstances

Preference Status

Changes in an applicant's circumstances while on the wait list may affect the family's entitlement to a preference. Applicants are required to notify the BHA in writing when their circumstances change.

When an applicant claims an additional preference, they will be placed on the waiting list in the appropriate order determined by the newly-claimed preference.

The exception to this is, if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference, before they returned to the waiting list with the new preference.

Change to the Family Composition

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open. When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the BHA will make the decision taking into consideration the following factors:

- The interest of any minor children, including custody arrangements
- The interest of any ill, elderly, or disabled family members
- Any possible risks to family members as a result of domestic violence or criminal activity;
- Recommendations of Social Service Agencies, and;
- Which family member applied as Head of Household.

When a family is on the wait list and the head of household is deceased, an adult member who has court ordered final custody of the children listed on the application will be allowed to retain the original application position. The family will take the appropriate place on the waiting list according to the date they first applied.

4.6 Local Preferences

Link: [24 CFR 982.207](#)

Preferences establish the order of applicants on the waiting list. An admission preference does not guarantee admission. Every applicant must still meet BHA's Selection Criteria before being offered a voucher. BHA has the following HCV preferences:

- Elderly Preference (100 points);
- Date and time of application / Randomized Lottery Number (if designated by the wait list opening).
- Domestic Violence Preference (100 points)

Elderly Preference: At the Senior Communities properties and Seashore Oaks Assisted Living Facility, BHA will give preference to families 62 years old or older. Verification of age will be used to verify this preference.

Domestic Violence: In the Tenant Based Voucher program, BHA will give preference to a maximum of four (4) families referred by the Gulf Coast Center for Nonviolence in connection with its Rapid Rehousing Program designed to aid families fleeing domestic violence.

When adopting a *new preference*, BHA will notify all applicants on the current waiting list to determine if any are eligible under the preference (24 CFR §5.655(c)). BHA will specify in a public notice of a waiting list opening that current waiting list applicants may qualify for the preference. The notice will include any other information new applicants and current applicants on the waiting list will need to know about how to successfully apply and establish their preference status, including any partnering agencies with whom the owner may be working to receive referrals or determine preference eligibility.

If an applicant makes a false statement in order to qualify for a local preference, BHA will deny the preference.

If the BHA denies a preference, BHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review.

If the preference denial is upheld as a result of the informal review or the applicant does not request

an informal review, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

4.7 Assistance Targeted by HUD

Link: 24 CFR 982.203; [982.203 \(2\)\(b\)\(1-5\)](#)

BHA will admit a family that is not on the waiting list, or without considering the family's waiting list position or preferences in certain circumstances prescribed by HUD. BHA will maintain records showing that the family was admitted with HUD-targeted assistance.

The BHA is currently administering the following types of targeted funding: Veterans Affairs Supportive Housing

4.8 Continuously Assisted Families

Link: [24 CFR 982.4](#); [982.203](#)

BHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by BHA. As noted in this Plan, families being relocated from the BHA's RAD/PBV program have priority for 75% of available vouchers with 25% available to other applicants on the Tenant Based Voucher Waiting List. Families under RAD/PBV program qualify as continually assisted and may use the portability option. In addition, families assisted under the U.S. Housing Act (including all families occupying units in properties receiving Section 8 project based assistance) are considered continually assisted. All such families are treated in the regulations as "special (non-waiting list) admissions".

When continuously assisted families face loss of housing assistance either because the owner of the property in which they live chooses not to renew a subsidy contract or because the property must be vacated for demolition, sale or total rehabilitation, such families may receive vouchers as continuously assisted families (and special non-waiting list admissions).

4.9 Relocation of Witnesses and Victims of Crime

Link: <http://portal.hud.gov/hudportal/HUD?src=/programdescription/witness>

BHA will provide Housing Choice Voucher assistance for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing. The BHA will accept written referrals from HUD for such cases. All referred applicants must meet Housing Choice Voucher eligibility requirements before admission to the program.

4.10 Income Targeting Policy

Link: [24 CFR 960.202\(b\)](#)

The BHA will monitor progress in meeting the Extremely Low income (ELI) requirement throughout the fiscal year. Extremely Low income families are defined as families whose incomes do not exceed the

higher of: Federal Poverty Level or 30 percent of Area Median Income. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met. Under limited circumstances, HUD rules allow admission of low income families. If an applicant on the waiting list is skipped over, they will retain their original sequential number placement and be the first applicant offered an opportunity for assistance after the extremely low income targeting requirement has been met.

4.11 Waiting List Placement

Applicants shall be selected in order of date and time of the initial application with consideration given to the regulations governing income targeting as well as any adopted local preference. If the Lottery randomization is used, then the selection will be by preference then lottery number.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the BHA will determine eligibility for admission to the program.

If the BHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the BHA will send written notification of the ineligibility determination within 10 calendar days of receiving a complete application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so. If upon conclusion of the informal review process, the family's preliminary eligibility is restored, the family's original date and time of application will be restored on the waiting list.

BHA does not review applicants to determine if they owe money to BHA or any other Assisted Housing program prior to placing them on the waiting list. However, if it is determined that an applicant owes BHA or any other Assisted Housing program, the applicant will not be eligible to participate on the program until their debt is paid in full. BHA reserves the right, in the case of extreme hardship (i.e., homelessness), to enter into a Repayment Agreement. Full documentation of the hardship will be required. In no case will the debt be forgiven.

Head of household, co-head and/or spouse are equally responsible for the debt incurred as a previous BHA tenant. Applicants who were minor children of a household which had incurred a debt to BHA will not be responsible for the parent's previous debt.

If an applicant or family requests copy of BHA's selection policies, the BHA will provide copies at .50 per page.

4.12 Selection from the Waiting List Notification

BHA will notify the family when it is selected from the waiting list. The notice will inform the family of the date, time, and location of the eligibility appointment, who is required to attend, and the documents that must be provided.

If a notification letter is returned to BHA with no forwarding address, or the family does not respond within the specified time, the family will be removed from the waiting list without further notice. Such

failure to act on the part of the applicant prevents BHA from making an eligibility determination; therefore, no informal review will be offered.

CHAPTER 5 - Initial and Continuing Eligibility

Link: [24 CFR 982.4](#); [982.203](#)

5.1 Qualifications for Admission

BHA will admit only applicants who are qualified according to all the following criteria:

- Are a family as defined by HUD and BHA.
- Qualify on the basis of citizenship or the eligible immigrant status of family members. Link [24 CFR Part 5, Subpart E](#)
- Provide documentation of Social Security numbers for all household members or certify that they do not have Social Security numbers. Link: [24 CFR Part 5, Subpart B](#)
- Have income at or below HUD-specified income limits. Link: [24 CFR Part 5, Subpart F](#)
- Consent to BHA's collection and use of family information as provided for in BHA consent forms.

Income Eligibility

Links: [24 CFR 982.201\(b\)](#); [982.4](#); [248.101](#) & [173](#)

For admission to the Housing Choice Voucher Program, a family must be income eligible in the area where the family initially leases a unit with housing assistance. A family porting into Biloxi, MS must be eligible in Biloxi, MS. A family porting out of Biloxi must be income eligible in the area where the family leases an assisted unit.

To determine if the family is income eligible, the BHA will compare the annual income of the family to the HUD published BHA income limit for the family's size. To be income eligible, the applicant must be a family in any of the following categories:

- An extremely low – income family (30% AMI)
- A very low – income family (50% AMI)
- A low-income family (80% AMI) that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4].
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR 511;
- A low-income non-purchasing family residing in a HOPE I (HOPE for Public and Indian Housing Homeownership) or HOPE 2 (HOPE for Multifamily Units) Project;
- A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173;
- A low-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165;
- A low – income (80% AMI) family that meets additional eligibility criteria specified in the BHA administrative plan. Such additional BHA criteria must be consistent with the BHA plan and with the consolidated plans for local governments in the BHA's jurisdiction.
- A low – income family (80% AMI) shall be used to determine the income limit for an eligible student and their parents in accordance with the ineligible student provisions.

- BHA has established an additional category of eligible low – income (80% AMI) families which are families qualifying for the properties that converted to project – based vouchers under the Rental Assistance Demonstration (RAD) program that were formerly Public Housing and eligible veterans under the HUD-VASH program. BHA determined it is necessary to maintain the financial viability of the program and will serve the population that was previously served under the Public Housing program.

Social Security Number Disclosure

Link: [24 CFR 5.216](#), [5.218](#); [Notice PIH 2012-10](#)

The applicant and all members of the applicant’s household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. (These requirements do not apply to noncitizens who do not contend eligible immigration status).

If BHA determines that the applicant is otherwise eligible to participate in a program, the applicant may retain its place on the waiting list for the program for up to 30 days but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household.

If a child under the age of 6 years was added to the applicant household within the 6 month period prior to the household’s date of admission, the applicant may become a participant, so long as the documentation required is provided to the BHA within 90 calendar days from the date of admission into the program.

The BHA will grant an extension if the BHA determines that, in its discretion, the applicant’s failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the applicant. If the applicant family fails to produce the documentation required within the required time period, the BHA must follow the provisions of [§ 5.218](#).

Citizenship Requirements

Link: [24 CFR Part 5, Subpart E](#)

BHA will verify the citizenship/immigration status of applicants at the time other eligibility factors are determined. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance. Each family member must declare whether the individual is a citizen, national or an eligible noncitizen. Family members who declare citizenship or national status will not be required to provide additional documentation supporting the individual’s declaration of citizenship and national status unless BHA receives information indicating that an individual’s declaration may not be accurate, such as a birth certificate. All eligible noncitizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age. Prior to being admitted, all eligible noncitizens must sign a declaration of their status and a verification consent form and provide their original USCIS documentation. Family members who do not claim to be citizens, nationals or eligible noncitizens, or whose status cannot

be confirmed, must be listed on a statement of non-eligible members and the list must be signed by the head of household.

Consent Form Requirements

BHA will require applicants and participants, including all adults (i.e., 18 years of age and older) in their households to sign the HUD 9886 Authorization for Release of Information form. This document authorizes BHA to verify state wage and income information, as well as other sources of income. In 2024 or as directed by HUD, BHA will require the new consent form to be signed at annual recertification or when a household member turns 18 years old. If the family fails to sign the consent or revokes consent at any time, BHA will deny of admissions or terminate assistance.

5.2 Family Definition

Link: [24 CFR 5.403](#)

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, or any other single person
- A group of persons residing together, and such group includes, but is not limited to:
 - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family); unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size but are not considered family members for determining income limit.
 - An elderly family;
 - A disabled family;
 - A displaced family; and
 - The remaining member of a participant family.

For categorizing family as defined above, the terms disabled family and elderly family are:

- Disabled family means a family whose head (including co-head); spouse or sole member is a person with a disability.
- Elderly family means a family whose head (including co-head); spouse or sole member is a person who is at least 62 years of age.

A family may have a spouse or co-head but not both. The co-head is an individual in the household who is equally responsible for the lease with the head of household. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Child (minor) relationship is determined only by: birth, adoption, a court order establishing custody, or a legal order from the social service agency, (i.e. Child Protective Services, DES, etc.).

A family does not include:

- A group of unrelated persons living together (friends, etc.)
- An additional family to the household, i.e. a sister and her children, etc.
- A housekeeper or live-in aide
- Foster children and/or foster adults

Each family must identify the individuals to be included in the family at the time of application and must notify the BHA if the family's composition changes within 10 calendar days.

Head of Household

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

Joint Custody

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

When more than one applicant or participant (regardless of program) is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or re-certification will be able to claim the dependents. If there is a dispute about which family should claim the dependent(s), the BHA will make the determination based on court orders, school records, tax documents or social service agency orders showing which family has custody.

Family Break Up

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

If a participant family breaks up into two otherwise eligible families, only one of the new families will retain occupancy of the unit.

If a court determines the disposition of property between members of an applicant or participant family as part of a divorce or separation decree, the BHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the BHA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the BHA will take into consideration the following factors:

- The interest of any minor children, including custody arrangements
- The interest of any ill, elderly, or disabled family members
- The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and provides documentation in accordance with this Administrative Plan
- Any possible risks to family members as a result of criminal activity
- The recommendations of social service professionals

Remaining Family Member

A remaining family member is defined by HUD and previously approved by BHA to live in the unit as a household member. Live in aides, foster children and foster adults do not qualify as remaining family members.

If the head of household dies or leaves the unit for any reason other than BHA termination of assistance, continued occupancy by remaining household members is permitted only if:

- The household reports the departure (or death) of the head of household in writing within 14 calendar days of the occurrence, and
- A replacement head of household is identified and reported to BHA in writing within 30 calendar days of the occurrence, and:
- If after 30 days of the occurrence, no head of household is reported, BHA will proceed with termination.
- The household member seeking to become the head of household must meet BHA's eligibility requirements.
- The member seeking to become the head of household has reported all income as required by BHA policy.
- The member seeking to become the head of household has not committed any violation of the lease agreement during their tenancy.
- The household agrees to occupy an appropriately sized unit based on BHA's Occupancy Standards.
- Except in cases where the member seeking to become the head of household is the parent or legal guardian of a remaining minor(s), the proposed head of household has been listed on the lease for at least 12 consecutive months, or since the previous head of household's tenancy (if less than 12 consecutive months).
- Except when the prior head of household is deceased, the head of household agrees to a written repayment agreement for any rent or charges incurred by the former head of household.
- Those under 18 seeking to become the head of household must provide proof of emancipation.

- An adult who becomes the guardian or other caretaker of remaining household member(s) who are minors may apply to become head of household and must meet BHA's eligibility criteria.

BHA may deny housing assistance if an action to terminate the former head of household housing assistance began prior to the former head of household's departure from the unit.

5.3 Student Head of Household

No assistance will be provided under section 8 of the 1937 Act to any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the [Higher Education Act of 1965 \(20 U.S.C. 1002\)](#);
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child; and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible based on income to receive assistance under section 8 of the 1937 Act.

The above restriction does not apply to a person with disabilities as such term is defined in section 3(b)(3)(E) of the 1937 ACT and who was receiving Section 8 assistance on November 20, 2005.

5.4 Guests/Visitors

Guests/Visitors are permitted based on the terms in the owner's lease; the owner has provided approval for the guest/visitor; and the guest/visitor is not an unauthorized person living in the unit.

A guest can remain in the assisted unit no longer than 14 cumulative days during any 12 – month period or BHA will consider the person(s) unauthorized persons in the unit. A family may request an exception to this policy for valid reasons (e.g. care of a relative recovering from a medical procedure is expected to last 30 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

The family must notify the BHA in writing of the children(s) names and timeframes the children(ren) will be in the household if the participant has children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the unit more than 50 percent of the time. Children under the age of eighteen (18) may visit a unit for a maximum of ninety (90) consecutive days per year without being considered part of the family, provided the family has the written permission of the owner/landlord.

In making the determination if the person is an unauthorized household member, BHA will consider among other factors:

- Statements from neighbors and/or BHA staff
- Vehicle license plate verification
- Post Office records
- Driver's license verification
- Law enforcement reports
- Credit reports

5.5 Eligibility Interview

Families selected from the waiting list are required to participate in an eligibility interview either individually or in a group setting. The family will be sent an interview notice to their last known address indicating the date, time, place, who must attend and what documents must be presented at the interview. The family will either be mailed a packet of documents to complete or will be provided with the packet at the group session. The packet must be complete in order for eligibility to be determined.

All adult family members are required to attend the interview and sign the housing application. Exceptions may be made for students attending school out of state or members for whom attendance would be a hardship. The head and spouse/co-head are both required to attend the interview. If all adult members are not available for the initial interview, the head of household may attend to complete the application and certify for the family. The co-head/spouse and other adult members, however, will be required to attend an interview within 10 calendar days to review the information and to certify by signature that all of the information is complete and accurate.

The family must provide the information necessary to establish the family's eligibility, including criminal background record, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If the family does not provide the required documentation at the time of the interview, the family will be given a list of missing documents and five (5) business days to return them. If the documents are not returned within the allotted days, BHA will make a second five (5) business day request for the missing information and/or signatures. If the family misses the second deadline, BHA will deny the application for failure to provide the required information. Extensions to the timeframe may be allowed based on emergencies and reasonable accommodations. An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Rescheduling the Eligibility Interview

If the family is unable to attend a scheduled interview or group appointment for good cause, the family must contact the BHA in advance of the interview to schedule a new appointment. If the family fails to attend a second scheduled appointment without BHA approval, BHA will deny assistance based on the

family's failure to supply information needed to determine eligibility. Applicants with documented and verified extenuating circumstances (illness, hospitalization, etc.), may contact the BHA within 24 after the scheduled appointment to reschedule. Appointments may only be rescheduled once.

Eligibility Notification

The BHA will notify a family in writing or via phone notification of their eligibility within 10 calendar days of the determination.

If the BHA determines that the family is ineligible, the BHA will send written notification of the ineligibility determination within 10 calendar days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and occupancy rights under the Violence Against Women's Act reauthorization 2013 (HUD Form 5380).

5.6 Criminal Background Policy

Links: [24 CFR 5.903](#); [24 CFR 960.204\(d\)](#); [24 CFR 960.204\(a\)\(4\)](#); [24 CFR 5.905\(d\)](#)

The BHA will perform criminal records checks at application for all adult household members (defined as 18 years of age or older), when a minor turns 18 or when adding an adult member to the household. If, at any time during the program participation, the BHA has reasonable cause (e.g., newspaper articles, credible informants, police reports) to believe that a household member is engaged in drug-related or other criminal activity which would pose a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents or BHA employees, the BHA may run a subsequent criminal check of that household member.

The BHA will conduct criminal records checks that will include a National Criminal History Check. Local/State checks will be conducted as needed. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records.

Drug Abuse Treatment Information

Links: [24 CFR 960.205\(f\)](#)

The BHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the BHA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program. The BHA will require the proposed family member sign a consent form for the drug abuse treatment facility to release information.

5.7 Duplicative Assistance

Link: [24 CFR 982.352\(c\)](#)

A family may not receive HCV assistance while receiving housing assistance of any of the following assistance types, for the same unit or for a different unit:

- Public or Indian housing assistance
- Other Section 8 assistance (including other participant based assistance)
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974)
- Section 101 rent supplements
- Section 236 rental assistance payments
- Participant based assistance under the HOME Program
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration)
- Any local or State rent subsidy
- Section 202 supportive housing for the elderly
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance)
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

5.8 Absences from the Unit

Link: [24 CFR 982.312](#)

Absent Family Member

The BHA will compute all applicable income of every family member who is on the lease, including those who are temporarily absent. It is the responsibility of the head of household to report changes in family composition and absences of family members.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

Generally, an individual who is or is expected to be absent from the assisted unit for 3 consecutive months or 90 days or more in a 12 month period of time is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member.

The family must request BHA approval for the return of any adult family members that the BHA has determined to be permanently absent. The individual is subject to the eligibility requirements stated in this Administrative Plan.

Absence of Entire Family

Notice is required when the Head of Household will be absent from the unit for 30 days or more. Notice is also required when all family members will be absent from the unit for 30 days or more. Families are required to give BHA 30 days' notice before moving out of a unit. Absence means that no family member is residing the unit. In order to determine if the family is absent from the unit, the BHA may:

- Conduct a special inspection
- Post letters on exterior door
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the Post Office for forwarding address
- Contact the emergency contact

The family must supply any information or certification requested by the BHA to verify that the family is living in the unit or relating to family absence from the unit.

If a family is absent from the unit for more than 180 consecutive days, the BHA will terminate assistance.

Absent Student

When minors and college students who have been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the BHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

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

If the child(ren) are removed from the home permanently, the unit size will be reduced in accordance with the BHA's occupancy guidelines.

Caretaker for a Child

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

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 consecutive days. After the 90 consecutive days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the BHA will extend the caretaker's status as an eligible visitor.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify for any deductions from income.
- If the caretaker is considered a family member, the caretaker must submit an eligibility application, pass all eligibility criteria, and his/her income will be counted as part of the household. Once eligibility is passed, the lease will be transferred to the caretaker as head of household.

Absent Head or Spouse Due to Employment

If an employed head, spouse, or co-head is absent from the unit more than 180 consecutive days due to employment, she/he will continue to be considered a family member.

Individuals Absent for Medical Reasons

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, the BHA will request verification from a responsible medical professional if the member will be gone less than 90 consecutive days (and up to 180 days after approval of the Section 8 Manager or authorized designee) and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

CHAPTER 6 - Tenant Rent and Housing Assistance Payment Calculation

6.1 Definition of Income

Link: [24 CR 5.609\(b\)](#)

BHA uses HUD's definition of Annual Income. Should this definition be revised, the current HUD definition will be used.

Annual income is the total income from all sources, including net income derived from assets received by the household head and spouse (even if temporarily absent) and by each additional household member including all net income from assets for the 12 month period following the effective date of initial determination or re-certification of income, exclusive of income that is temporary, non-recurring or sporadic as defined below, or is specifically excluded from income by other federal statute. Annual income includes but is not limited to:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- The net income from operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness will not be used as deductions in determining the net income from a business. An allowance for the straight line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the household for cash or assets invested in the business;
- Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness will not be used as deductions in determining net income. An allowance for the straight line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be considered income when used to reimburse the household for cash or assets invested in the property;
- The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay;
- All welfare assistance payments (Temporary Assistance to Needy Families, General Assistance) received by or on behalf of any household member
- Periodic and determinable allowances, such as alimony and child support payments, and regular cash and non-cash contributions or gifts received from agencies or persons not residing in the dwelling made to or on behalf of household members; and

- All regular pay, special pay, and allowances of a household member in the Armed Forces.

Alimony and Child Support

The BHA will count court-awarded amounts for alimony and child support unless the BHA verifies that:

- The payments are not being made and
- The family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

If the amount of child support or alimony received is less than the amount awarded by the court, BHA will use the amount that is received by the family. BHA will accept as verification that the family is receiving an amount less than the award if one of the following:

- BHA receives verification from the agency responsible for enforcement or collection
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement collection agency
- Or has filed an enforcement or collection action through an attorney.

If no child support is being received, the family must certify that no support is being received. BHA will not include child support income if no payments have been received within the most recent sixty (60) days. It is the family's responsibility to supply documentation and/or a copy of the divorce decree. Income will be projected by averaging the most current three consecutive month's payment to project income for twelve (12) months.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Sporadic income

Sporadic income is income that is not received regularly and cannot be reliably predicted.

Regular Contributions and Gifts

Examples of regular contributions include:

- Regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments)
- Cash or other liquid assets provided to any family member on a regular basis
- "In-kind" contributions such as groceries and clothing provided to a family on a regular basis
- Any contribution of gift received every 3 months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$100 per year

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

for food, clothing personal items, and entertainment is not considered student financial assistance and is included in annual income.

Incremental Earnings

The BHA defines incremental earnings and benefits as the difference between:

- The total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and
- The total amount of welfare assistance and earnings of the family member after enrollment in the program.

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

6.2 Earned Income Disallowance (EID) Policy

Link: [24 CFR 5.617](#)

This disallowance applies only to disabled family members already receiving Earned Income Disregard (EID) on December 31, 2023. EID will lapse on January 1, 2030. For any family not receiving EID on December 31, 2023, the availability of EID will lapse on December 31, 2023.

For any family receiving EID on December 31, 2023, the policies below apply. The EID applies to disabled family members with disabilities and affords them the ability to accept a job without having immediate rent increases as a result of earned income. To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program.
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months.

The baseline income is the annual income immediately prior to the implementation of the disallowance for a person who is a member of a qualified family. The family member's baseline (qualifying) income remains constant throughout the period that he/she is receiving the EID.

Disallowance of Earned Income

Link: [24 CFR §§5.617, 960.255](#); [PIH Notice 2016-05](#)

Initial 12 month exclusion: During the 12 month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the BHA will exclude from the annual income of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

Phase-in of rent increase: Upon the expiration of the 12 month period and for the subsequent 12 month period, the BHA will exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

Maximum 2 year disallowance: The disallowance of increased income of an individual family member is limited to a lifetime 24 month period. It applies for a maximum of 12 months for disallowance (initial 12 months) and a maximum of 12 months (second 12 months), during the 24 month period starting from the initial exclusion.

Families eligible for and participating in the disallowance of earned income prior to May 9, 2016 will continue to be governed by HUD regulations in effect immediately prior to that date.

6.3 Business Income

Link: [24 CFR 5.609\(b\)\(2\)](#)

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

Business Expansion

Any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations.

Capital Indebtedness

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

Acceptable Investments

Acceptable investments in a business include cash loans and contributions of assets or equipment.

Co-Owned Businesses

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

6.4 Assets

Link: [24 CFR 5.609\(b\) and \(c\)](#)

An asset is an item of value that can be converted into cash and may or may not earn income. Annual income includes income amounts derived from assets to which the family has access. Assets include, but are not limited to checking and savings accounts, investment accounts, equity in real property, personal property held as an investment, whole life insurance policies, and assets disposed of for less than fair market value.

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

If the Household has net assets in excess of \$50,000, annual income will include the greater of the actual income derived from all assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD.

Jointly Owned Assets

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

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

Disposed Assets

The BHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$5,000.00. Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

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

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments. All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Families must complete an application at initial certification and each annual re-certification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

Checking and Savings Accounts

In determining the value of a checking account, the BHA will use the average monthly balance for the last two months. In determining the value of a savings account, the BHA will use the current balance. In determining the anticipated income from an interest-bearing checking or savings account, the BHA will multiply the value of the account by the current rate of interest paid on the account.

Investments

In determining the market value of an investment account, the BHA will use the value of the account on the most recent investment report. How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

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

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

Real Property, Personal Property, Other Capital Investments

BHA must determine whether a family has present ownership in real property for the purposes of determining whether the family is compliant with asset limitation requirements. BHA will accept self-

certification from the family at admission and reexamination that the family does not have any present ownership interest in any real property.

If a family declares present ownership in real property, BHA will seek third-party verification of the following, as applicable: whether or not the family has the legal right to reside in the property; whether or not the family has the effective legal authority to sell the property; and whether or not the property is suitable for occupancy by the family as a residence. In the case of a family member who is a victim of domestic violence, dating violence, sexual assault, or stalking, BHA will comply with confidentiality requirements related to VAWA.

For Real Property, BHA will use the payoff amount for the mortgage to calculate equity. If the payoff amount is not available, BHA will use the loan balance.

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

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

6.5 Lump Sum Payments

Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

- The entire lump-sum payment will be added to the annual income at the time of the interim.
- The BHA will determine the percent of the year remaining until the next annual re-certification as the date of the interim (three months would be 25% of the year).
- At the next annual re-certification, the BHA will apply the percentage balance (75% in this example) to the lump-sum and add it to the rest of the annual income.
- The lump-sum will be added the same way for any interims which occur prior to the next annual re-certification.
- If amortizing the payment over one year will cause the family to pay more than current HUD percentage of the family's adjusted income (before the lump sum was added) for total tenant payment, the BHA and family may enter into a repayment agreement for the balance of the amount of the current HUD percentage calculation. The beginning date for this repayment agreement will start as soon as the one year is over.

Retroactive Calculation Methodology

- The BHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.
- The BHA will determine the amount of income for each re-certification period, including the lump sum, and re-calculate the participant rent for each re-certification period to determine the amount due the BHA.
- The family has the choice of paying this retroactive amount to the BHA in a lump sum. At the BHA's option, the BHA may enter into a repayment agreement with the family.
- The amount owed by the family is a collectible debt even if the family becomes unassisted.

Attorney Fees

The family's attorney's fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

6.6 Excluded Income

Link: [24 CFR 5.609\(c\)](#)

The following are types of excluded income:

- Income from employment of children (including foster children) under the age of 18 years
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the participant family, who are unable to live alone);
- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- Income of a live-in aide, as defined [in 24 CFR §5.403](#);
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- Amounts received in the following circumstances:
 - From training programs funded by HUD;
 - Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - Amounts received under a participant service stipend; and

- Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as participant management staff.
- Temporary, nonrecurring, or sporadic income (including gifts);
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- Adoption assistance payments in excess of \$480 per adopted child;
- Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;
- Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs That includes assistance under any program to which the exclusions set forth in [24 CFR 5.609\(c\)](#) apply.
- The portion of education grants that include tuition and required fees and other charges.
- VA service-connected disability benefits, as defined in 24 CFR 5.609(a)(1) for HUD VASH applicants

Excluded Periodic Payment

The BHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.

Income from Training Programs

BHA defines training program as: a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to:

- Classroom training in a specific occupational skill
- On-the-job training with wages subsidized by the program
- Basic education

6.7 Deductions from Income

Link: [24 CFR 5.611](#)

Anticipating Expenses

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

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

Medical and Dental Expenses

BHA will use the most current IRS Publication 502, Medical and Dental Expenses, to determine the costs that qualify as medical expenses

Disability Assistance Expenses

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

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

If the care attendant also provides other services to the family, the BHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

The BHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the BHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the BHA will consider, the family's justification for costs that exceed typical costs in the area.

Both Medical and Disability Expenses

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the BHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the BHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work. When the BHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

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

Child Care

Child care is allowed as a deduction from income for children less than 13 years of age including foster children. The family must identify the family member(s) enabled to pursue an eligible activity: seeking work, pursuing an education or being gainfully employed.

Allowable Child Care Activities and Expenses

For school-age children under 13 years of age, costs attributable to public or private school activities during standard school hours are not considered allowable child care expenses. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

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

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

otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time.

For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the BHA will use the schedule of child care costs from the local welfare agency. Families may present, and the BHA will consider, justification for costs that exceed typical costs in the area.

Seeking Work

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each re-certification. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the BHA.

Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

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

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

Permissive Deductions

BHA has not adopted any permissive deductions.

6.8 Anticipating Income

When the BHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the BHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. The family file will be documented with a clear record of the reason for the decision, and how the BHA anticipated income.

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

6.9 Future Changes

If the BHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12 month period. The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family.

In such cases the BHA will calculate annual income using current circumstances and then require an interim re-certification when the change actually occurs. This requirement will be imposed even if the BHA's policy on re-certifications does not require interim re-certifications for other types of changes. When participant-provided third party documents are used to anticipate annual income, they will be dated within 60 days of the documentation request.

6.10 Total Tenant Payment and HAP

Links: [24 CFR 5.628](#); [5.630](#); [5.634](#)

BHA follows HUD regulations for determining the family's portion of rent and the HAP subsidy to the owner.

Total Tenant Payment is the higher of:

- 30% of adjusted monthly income; or
- 10% of monthly income;
- Not less than the Minimum Rent of \$50

Tenant Rent

- Tenant rent is calculated by subtracting the utility allowance for participant supplied utilities (if applicable) from the Total Tenant Payment.
- Where the owner pays for all utilities and provides the stove and refrigerator, Tenant Rent equals Total Tenant Payment.

Rent to Owner

Rent to owner is the greater of:

- The Payment Standard less the Housing Assistance Payment; or
- The Gross Rent less the Housing Assistance Payment
- Minimum rent

Payment Standards

Link: [24 CFR 982.505](#)

The payment standard is used in the calculation of the housing assistance payment for a family. The payment standard for the family is the lower of:

- The unit size shown on the voucher, or
- The size of the actual unit selected by the family.

Establishment of Payment Standards

Link: [24 CFR 982.503\(b\),\(c\),\(g\)](#)

The payment standard is set by BHA between 90% and 110% of the HUD published FMR. BHA will review the payment standard at least annually to determine whether an adjustment should be made. As a reasonable accommodation, BHA may establish an exception payment standard of not more than 120% of the published FMR. Effective January 2025 VASH payment standard is set at 140% of the HUD published FMR.

Utility Allowances and Utility Reimbursements

Link: [24 CFR 982.517](#); 24 CFR 5.632 ; [Notice PIH 2016-05](#)

BHA maintains a Utility Allowance Schedule which is used in the housing assistance payment calculation to assist with the cost of utilities not included in the rent. When the utility allowance exceeds the family's total tenant payment, BHA will provide the family a utility reimbursement payment. BHA may pay the utility reimbursement either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. BHA has selected to pay the power utility supplier and will notify the family of the amount paid on the family's behalf. All utilities must be in the Head of Household's name, and the family must provide proof (a copy of the most recent bills) at annual recertification. For current participants, BHA will provide a 120-day transition period for the family to comply with this requirement. Effective April 1, 2024, BHA will redirect all utility reimbursement payments directly to the power utility provider. The utility allowance calculation is based on the lower of:

- The voucher unit size based on BHA subsidy standards
- The size of the actual unit leased by the family
- In the case of a reasonable accommodation, BHA will use utility allowance for the unit size actually leased by the family.

An allowance for participant paid air conditioning will be calculated when central air-conditioning or a portable air conditioner is present in the unit.

BHA will review the utility allowance schedule annually and revise it when needed. Revised utility allowances will be applied in a family's rent calculation at the next annual re-certification.

BHA may make reimbursement payments retroactively or prospectively.

Welfare Rent

Welfare Rent does not apply.

6.11 Minimum Rent and Hardship Exemptions

Link: [24 CFR 5.630](#)

Participants in the housing choice voucher program are eligible for the hardship exception to minimum rent, health/medical care expense and/or reasonable attendant care or auxiliary apparatus expense, as well as continued childcare expense, if they meet at least one of the following criteria:

For Minimum Rent:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved; or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances. To make a claim under this hardship exemption, the family must provide BHA with proof of application for assistance, or termination of assistance. The proof would be provided by the agency responsible for granting assistance or terminating assistance.
- The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or participant-paid utilities. The family must be able to document inability to pay the minimum rent at the time of the request
- The family income has decreased because of changed family circumstances, including the loss of employment. To make a claim under this criteria, the loss of employment must not be the result of failure to meet employment requirements by the participant. Changed circumstance as defined in this section includes, but is not limited to:
 - Reduction in work hours
 - Reduction in pay rate
 - Reduction in work force
- If a death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income). The deceased family member must be an income producing member of the household, which contribute to the 30% of income used to calculate the participant's rent.

To make a claim under these provisions the applicant or participant must submit a request, in writing, to the BHA office. The applicant/participant must provide documentation to support the request for a hardship exemption.

- The BHA will make the determination of hardship within 30 calendar days.
- The BHA will require the family to repay the suspended amount within 30 calendar days of the BHA's notice that a hardship exemption has not been granted. The BHA will enter into a repayment agreement in accordance with the BHA's repayment agreement policy.
- If the BHA determines that a qualifying financial hardship is temporary, the BHA will reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

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

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

- At an interim or annual re-certification, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

For Health and Medical Expenses Deduction Phased In Relief

As of January 1, 2024, the family must have been receiving a deduction from annual income of qualified health and medical expenses exceeding three (3) percent of annual income. The family must have seen an increase in their non-deductible health and medical expenses, which would result in an increase in their annual adjusted income and their rent.

Because the new HUD rules allow health and medical expenses exceeding 10% of the family's annual income to be deducted from the amount of a family's income to determine the adjusted income in calculating the rent, the family can request a phased in relief.

To make a claim under this provision, the family must submit a request, in writing, to the BHA office, with documentation to support the request for a hardship exemption. BHA will make the determination of hardship within 30 calendar days. If the hardship exemption is granted, the family will be phased into the new deduction amount over two years:

- 1st year: BHA deducts eligible expenses exceeding 5% of the family's income.

- 2nd year: BHA deducts eligible expenses exceeding 7.5% of the family's income.
- After 24 months this hardship exemption expires. BHA will deduct expenses exceeding 10% of the family's annual income unless the family requests and qualifies for a new exemption under General Financial Hardships.

General Financial Hardships

This exemption is for a family who can demonstrate a financial hardship due to an increase in their qualified expenses or because of a change that would not otherwise trigger an interim reexamination. The family must demonstrate that the applicable expense increased, or the hardship is the result of a change in circumstances, which would not otherwise trigger an interim reexamination.

To make a claim under this provision, the family must submit a request, in writing, to the BHA office, with documentation to support the request for a hardship exemption. BHA will make the determination of hardship within 30 calendar days. If the hardship exemption is granted, the family will:

- Receive a deduction of all eligible expenses exceeding 5% of their annual income.
- The exemption will end when the circumstances that made the family eligible for the exemption no longer apply or after 90 days, whichever comes earlier.
- If the hardship continues beyond 90 days, the family may request an extension, in writing. BHA may elect to grant one 90-day extension.

For Child Care Deduction

As of January 1, 2024, a family whose eligibility for the childcare expense deduction is ending may request a hardship exemption to continue the deduction. The family must demonstrate that they are unable to pay their rent because of loss of this deduction, and the child care expense is still necessary even though the family member is no longer employed or furthering education.

To make a claim under this provision, the family must submit a request, in writing, to the BHA office, with documentation to support the request for a hardship exemption. BHA will make the determination of hardship within 30 calendar days. If the hardship exemption is granted, the family will:

- Receive a deduction of the eligible child care expense.
- The exemption will end when the circumstances that made the family eligible for the exemption no longer apply or after 90 days, whichever comes earlier.
- If the hardship continues beyond 90 days, the family may request an extension, in writing. BHA may elect to grant one 90-day extension.

CHAPTER 7 - Request for Tenancy Approval and Leasing

After families are issued a voucher, they may search for a unit within the jurisdiction of BHA, or outside of BHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments (HAP) contract with BHA within the time frame listed on the voucher.

7.1 Information to Owners

Link: [24 CFR 982.307\(a\)\(112\); \(b\)\(1\)](#)

It is the responsibility of the owner to determine the suitability of prospective families as the BHA does not screen for suitability as participants. Owners are encouraged to screen applicants for rent payment and eviction history, credit history, prior rental references and damage to units, and other factors related to the family's suitability as a renter. Owners may not discriminate on the basis of race, religion, sex, color, national origin, disability, sexual orientation, gender identity or familial status.

If requested by an owner, BHA will provide any of the following information in writing regarding a family's tenancy history, based on existing documentation relating to:

- Previous owner name, address and phone number
- Current owner name, address and phone number
- Lease violations reported by former owner
- Rent or other amounts owed to either former or the current PHA
 - If so, whether the family is currently in a repayment agreement

BHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners. BHA will make an exception to this policy if the family's whereabouts must be protected due to domestic abuse or witness protection, and the protection requirements are documented.

7.2 Allowable Housing Types

Link: [24 CFR 982.601\(b\)\(2\)](#)

The following types of rental units may be leased in the Housing Choice Voucher program, unless designated otherwise:

- Single family detached homes
- Duplexes
- Multi-plexes
- Garden apartments

- Condominiums, townhouses
- High-rises
- Manufactured homes where the tenant leases the mobile home and the pad
- Manufactured homes where the tenant owns the mobile home and leases the pad
- Other multi-family rental housing structures

The following types of housing are not permitted in the HCV program:

- Hotels
- Motels
- Nursing homes
- College or school dormitories
- Other types disallowed by HUD regulations
- Unit occupied by its owner or a person with any interest in the dwelling unit
- Unless its lease was effective prior to June 17, 1998, a family may not lease a property owned by relatives, i.e.: sister, brother, mother, father, spouse, son, daughter, grandmother, grandfather

BHA may permit use of any of the following types of special housing if needed as a reasonable accommodation for a person with disabilities:

- Independent Group Residences,
- Congregate Housing,
- Single Room Occupancy Facilities

7.3 Request for Tenancy Approval (RFTA)

Link [24 CFR 982.352\(2\)](#); [982.305](#) & [308-309](#); [982.401](#); [982.507-508](#); [982 Subpart M](#); [Form HUD-52517](#)

Before a family leases a unit, BHA must approve the unit selected by the family. The voucher holder and the owner/landlord must submit the following:

- Complete RFTA, signed by both the family and the owner, including:
 - Dwelling lease
 - Proof of ownership of the unit to be leased (e.g., most recent year tax statement, warranty deed and management agreement, if applicable);
 - If the property is in a corporation, the names of all parties, a W-9 form completed by the owner, with the owner's EIN or social security number, current street mailing address or Post Office Box (Post Office Box may be used for Owner Correspondence only).
 - Current contact information including telephone number and email
 - Owner Certification
 - Owner Fraud Statement
 - For units constructed prior to 1978, owners must either
 - 1) certify that the unit, common areas, and exterior have been found to be free of lead based paint by a certified inspector; or
 - 2) attach a lead based paint disclosure statement.

The family may submit only one RFTA at a time. When the family submits the RFTA, BHA will review the packet for completeness. If the packet is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the BHA will notify the family and the owner. The owner will be given three (3) business days to submit an approvable RFTA from the date of disapproval.

Tenancy Addendum

Link: [24 CFR 982.308](#); [HUD Form 52641](#)

The owner must use the HUD Tenancy Addendum or all provisions in the HUD-required Tenancy Addendum must be added to the owner's lease. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum will prevail over any other provisions of the lease.

Dwelling Lease

Link: [24 CFR 982.308\(d\)](#)

When the RFTA and proposed lease are submitted, the BHA will review the terms of the RFTA for consistency with the terms of the proposed lease. If the terms of the RFTA are not consistent with the terms of the proposed lease, the BHA will notify the family and the owner of the discrepancies. The proposed lease must comply with HUD requirements, as well as State and local law. The BHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

- Owners that use a standard lease for units rented to unassisted families must use the same lease, plus the HUD prescribed tenancy addendum for HCV assisted families.
- BHA will review the owner's lease, any optional charges, compliance with regulations, and any house rules.
- Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.
- The initial lease term must be for one year.
- The owner must be approved and there must be no conflicts of interest (e.g. owner may not be a relative, etc.).

New Lease Required

- If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- If there are any changes in lease provisions governing the term of the lease;
- If the family moves to a new unit, even if the unit is in the same building or complex.

7.4 Voucher Term

Link: [24 CFR 982.303\(a\)](#)

The initial voucher term is 60 calendar days. The family must submit a Request for Tenancy Approval that is complete and a proposed lease within the 60-day period unless the BHA grants an extension.

Voucher Extensions

Link: [24 CFR 982.303\(b\)](#)

Requests for extensions must be submitted to BHA in writing prior to the expiration of the voucher term. Extensions are permissible at the discretion of the BHA up to a maximum of an additional sixty days. The maximum time limit on the voucher term (including extensions) is 120 days, except when a reasonable accommodation is granted for persons with disabilities or to find new housing when an assisted household has to be divided as a result of the violence or abuse covered by VAWA. The voucher term for reasonable accommodations and VAWA requests will be set at a maximum of 180 days.

BHA is not obligated to grant an extension, but may consider any of the following circumstances in its decision:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time, which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.

The BHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking assistance of the BHA, throughout the initial sixty-day period. The BHA will promptly decide whether to approve or deny an extension request and will provide the family written notice of its decision.

Voucher Suspension

The BHA will suspend the term of the voucher from the date a complete Request for Tenancy Approval and proposed lease is accepted by the BHA until the date the BHA makes a final determination with respect to that Request for Tenancy Approval. If the family chooses to cancel the Request for Tenancy Approval (RFTA), the term of the voucher will be reinstated the date the BHA receives notice the RFTA is cancelled by the family.

7.5 Subsidy Standards

Link: [24 CFR 982.401\(d\)](#)

BHA does not determine who shares a bedroom or sleeping room. The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

Subsidy Standards Chart

Link: [24 CFR 982.402](#)

The standards listed below are consistent with HUD requirements and serve as general guidelines when BHA determines the unit size on the family's voucher:

Voucher Unit Size	Persons in Household Minimum Number	Persons in Household Maximum Number
0-BR	1	1
1-BR	1	3
2-BR	2	5
3-BR	3	7
4-BR	4	9
5-BR	5	11

BHA generally assigns one bedroom to two people within the following guidelines.

- Head of Household will be allocated a room.
- Separate bedrooms will be allocated for persons of the opposite sex other than spouses or co-heads and children under the age of six;
- Authorized live-in aides will be allocated one separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Foster children will be included in determining unit size only if they will be in the unit for at least six (6) consecutive months.
- Space may be provided for a child who is away at school, but who lives with the family during school recess.
- A household in which the parent shares joint custody of a dependent child will include the child on the lease and will be counted for purposes of establishing occupancy standards for unit size if:
 - The head of household is legally entitled to physical possession of the child more than 50% of the time; and
 - The child actually physically resides in the unit with the head of household more than 50% of the time.

An exception may be granted to allocate a separate bedroom to a family member, if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. Written verification of disability and need for the medical equipment may be required by BHA prior to allocation of the separate bedroom.

Exceptions to Subsidy Standards

A participating family may request a subsidy exception at any time; however, if the family is in the first term of the lease, or in a lease other than month-to-month, or is not eligible to move for any other reason, the request may be denied based upon the family's ineligibility to move at the time of the request.

Unit Size Selected by Family

The family may select a different size unit than that listed on the voucher; however, the unit must meet housing quality standards, have a reasonable rent, and the tenant rent must not exceed 40% of the family's adjusted income at initial leasing. When calculating the Housing Assistance Payment (HAP), BHA will apply the payment standard and utility allowance for the lower of:

- The unit size shown on the voucher, or
- The size of the actual unit selected by the family.

Under-Housed and Over-Housed Families

If a unit does not meet HQS space standards due to an increase in family size or change in family composition, BHA will issue the family a voucher to move to an appropriately sized unit. HQS requirements permit a maximum of two persons per living or sleeping room in the unit.

Families will not be required to use rooms other than bedrooms for sleeping purposes in the voucher size determination. Participants may elect to use other areas of the unit as living/sleeping areas in determining the total number of persons eligible to live in the unit as a result of the family's request to add household members. A total of two additional members per living/sleeping area may be approved at the request of the participant. BHA will only grant increases in voucher size in cases of birth, adoption, court awarded or other legally documented custody.

BHA will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under-housed and in an accessible unit.
- If a family requires the additional bedroom because of a health problem that has been verified by the BHA, it is considered a reasonable accommodation and will be reviewed at each annual re-certification.

If, after substantial marketing and advertising, no eligible applicants qualify for BHA-owned handicap-accessible or two-bedroom Senior Communities units, BHA will house families that otherwise qualify in the units for a period of one year. After a year, BHA will conduct an assessment to determine if there is an eligible applicant or current tenant who now qualifies for the unit. If there is, BHA will ensure that the current family is transferred to another eligible unit and the qualifying family is housed in the handicap-accessible or two-bedroom unit.

7.6 Security Deposit

Links: [24 CFR 982.313 \(a\) and \(b\)](#)

The owner may collect a security deposit from the participant. The deposit must be reasonable based on local security deposits charged and those charged by the owner for other assisted and non-assisted units.

7.7 Separate Agreements

Links: [24 CFR 982.451\(b\)\(4\)](#); [24 CFR 982.510\(c\)](#)

The BHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease. Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

7.8 Initial Rent Burden

At initial lease, the family's rent cannot be more than 40% of the family's adjusted income. At the family's request, BHA will negotiate with the owner to reduce the rent. If the rent is not lowered to at or below 40% of the adjusted income, the family may not lease the unit.

7.9 Disapproval of RFTA

If BHA determines that the Request for Tenancy Approval cannot be approved for any reason the owner and the family will be notified. BHA will instruct the family of the steps that are necessary to approve the RFTA.

If an RFTA is not approved and the voucher has not expired, BHA will furnish another RFTA to the family to continue searching for eligible housing.

7.10 Owner Disapproval

Links: [24 CFR 982.54d\(8\)](#); [982.306](#); [982.161\(a\)](#)

BHA may disapprove the owner for any of the following reasons:

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the participant based programs, or with applicable housing standards for units leased with project based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of participants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the participant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other participants; (ii) Threatens the health or safety of other participants, of employees of the BHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes;
- The owner has not paid state or local real estate taxes, fines, or assessment.
- When HUD has informed BHA that disapproval is required because:
 - Owner has been disbarred, suspended, or subject to a limited denial of participation
 - Federal government has instituted an administrative or judicial action against the owner for violating the Fair Housing Act or other federal equal opportunity requirements and such action is pending;
 - Court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

Before imposing any penalty against an owner, BHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, BHA may debar or suspend the owner from future participation in the Section 8 HCV program. BHA may terminate some or all contracts with the owner.

The BHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the BHA (except a participant commissioner)
- Any employee of the BHA, or any contractor, subcontractor or agent of the BHA, who formulates policy or who influences decisions with respect to the programs

- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The BHA must submit a waiver request to the appropriate HUD Field Office for determination. Any waiver request submitted by the BHA must include the following:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the BHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the BHA or assistance under the HCV program for an eligible BHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the BHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the BHA has requested a conflict of interest waiver, the BHA may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, the BHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

CHAPTER 8 - Housing Quality Standards and Inspections and Rent Reasonableness

Links: [24 CFR 982.305](#); [982.401](#); [982.405\(b\)](#); [HOTMA §101\(a\)\(1\)](#)

BHA performs four types of inspections:

- Initial Inspections
- Biennial Inspections
- Special Inspections
- Quality Control Inspections

BHA adheres to Housing Quality Standards (HQS) standards as established in 24 CFR 982.401 to perform all required inspections. Effective 2024 or as directed by HUD, inspection standards will change to NSPIRE. Interpretative guidance for HQS acceptability criteria is taken from Form HUD 52580-A, the HUD Housing Inspection Manual and BHA Inspection Policy and Procedure memoranda.

8.1 Initial Inspections

The owner or owner's representative must be present at the initial inspection and any re-inspection. The applicant is permitted but not required to be present. All utilities must be in service at the initial inspection or the inspection will fail. For the re-inspection, the utilities must be turned on.

The unit must have an operating oven, a stove or range, and refrigerator, which may be supplied by the owner or family. If the participant is responsible for providing the stove and/or refrigerator, the stove and/or refrigerator must be placed in the unit in order to pass inspection.

BHA will conduct the initial inspection generally within 15 days after receiving a completed RFTA from the family and the unit is ready for inspection.

If the unit fails the initial HQS inspection, the owner will be notified of the deficiencies. The owner is required to contact BHA within 10 days of the initial inspection to advise the repairs have been made. If the unit fails the re-inspection, the family must select another unit. BHA may agree to conduct a second re-inspection when requested and there is good cause to grant the request.

BHA may deny a contract for a unit if the unit has a history of failed inspections for major infractions within the past 24 months. Major infractions include, but are not limited to failing paint issues, plumbing or sewage, heat or hot water, flooding or leaks at window or roofs, gas leaks, or ongoing electrical malfunctions, and evidence by previous participant tenants of excessive utility bills or other such infractions. A minimum of three or more complaint inspections or repeated failures during annual, quality control or special inspections in a 24-month period where major infractions were cited, or where ongoing HQS violations are documented may be cause for denial of a new contract or termination of an existing contract. Owners are encouraged to inspect their property periodically during the term of the HAP contract to ensure compliance.

8.2 Biennial HQS Inspections

Link: [24 CFR 982.405\(a\)](#)

BHA will conduct HQS inspections every 18 months. An adult family member must be present at the inspection. If an adult family member cannot be present on the scheduled date, the family must contact BHA to reschedule the inspection. Inspections may be rescheduled once.

If the family misses the first scheduled appointment without notifying BHA before the inspection, the inspection will fail and BHA will automatically schedule a second inspection. If the family misses two scheduled inspections, BHA will consider the family to have violated its obligation to make the unit available for inspection.

8.3 Special Inspections

The BHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit. An adult family member must be present for the inspection. During a special inspection, BHA 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 90 days of the date the special/complaint inspection is scheduled the BHA may elect to conduct a full inspection.

8.4 Quality Control Inspections

Link: [24 CFR 982.405\(b\)](#)

BHA will 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. An adult family member must be present for the inspection.

8.5 Scheduling Inspections and Family Attendance

Link: [24 CFR 982.551\(d\)](#)

The family must allow the BHA to inspect the unit at reasonable times with reasonable notice. The family and owner will be given reasonable notice (at least 48 hours) except in the case of a life-threatening emergency. In the case of a life-threatening emergency, the BHA will give as much notice as possible,

depending on the nature of the emergency. Inspections may be scheduled between 8:00 a.m. and 5:30 p.m., Monday through Friday.

Missed and Rescheduled Inspections

An owner is not allowed to cancel an annual, special or quality control inspection. The family may only request to cancel and reschedule the annual inspection for good cause: e.g. unavoidable conflict, which seriously affects the health, safety or welfare of the family. BHA may require the family provide documentation in support of the request. The family may only cancel and reschedule the annual inspection once. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 5 days.

BHA will process termination of family program assistance and inform the owner of contract unit termination when the following occurs:

- The family cancels, does not allow entry, or fails to have an adult present on two consecutive scheduled inspections.
- If the family does not allow entry, is not present for the inspection, or fails to have an adult present, the attempted inspection is considered a failed inspection.

8.6 Emergency Inspections

If a participant or government official reports a condition that is life-threatening, BHA will inspect the unit within 24 hours.

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the BHA will determine if the failure is a life-threatening condition. Items considered life-threatening or of an emergency nature include but are not limited to the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

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

When failures that are not life-threatening are identified, the BHA will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will state that the re-inspection will occur within 30 days, without a BHA approved extension. BHA will automatically schedule the unit for re-inspection.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any BHA-approved extension), the owner's HAP will be abated in accordance with BHA policy.

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

- The BHA 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.
- The maximum length of time that HAP may be abated is 90 days.
 - However, if the owner completes corrections and notifies the BHA before the termination date of the HAP contract, the BHA 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.

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

If the owner is unable to gain access to the unit to make repairs due to the family's lack of cooperation, the owner will enforce the lease and advise BHA of the lease violation.

In the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any BHA approved extension, if applicable) the family's assistance will be terminated in accordance with BHA policy.

8.7 HQS Certifications

Link: [24 CFR 982.404\(a\)\(3\)](#); [Notice PIH 2011-29](#)

At BHA's sole discretion, BHA will complete a re-inspection and/or allow the owner and participant to submit a HQS Repair Certification form.

If the owner is eligible to submit a HQS Repair Certification form, the Certification must be submitted to BHA within the required day(s) of the failed inspection, must also contain the participant's signature, and documentation of the completed work may be required, i.e. receipts, pictures, etc. If the deficiency was indicated as life-threatening and a 24-hour repair is required, additional documentation must be provided as indicated on the written notice provided to the owner by BHA. Units where verification of repair by self-certification and/or photographs are used, may be subject to additional quality control inspections. If, at any time after the execution of the certification, it is determined that the repairs were not completed in a satisfactory manner, all Housing Assistance Payments (HAP) made since the deadline date for correction of repairs will be abated and payments already made to the landlord will be recouped by BHA.

It is the owner's responsibility to obtain the participant's signature on the Certification and to submit the form to BHA within 30 days of the date of the first inspection, unless an extension is granted.

BHA may utilize a HQS Repair Certification form when the repairs required are minor. The unit is not eligible for a Certification and must be re-inspected in the following circumstances:

- The owner is on the Re-inspection Required List
- The unit has numerous failed items
- The fail is an emergency, 24-hour repair item
- The failed item(s) are of a serious or suspicious nature

8.8 Extensions

Link: [24 CFR 982.404](#)

BHA will not grant extensions for life-threatening conditions. For conditions that are not life-threatening, the BHA may grant an exception for correcting the failed item(s), if the BHA determines that an extension is appropriate. Extensions will be granted in cases where the BHA 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 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

8.9 Family Responsibilities

Link: [24 CFR 982.551\(d\)](#), [24 CFR 982.404\(b\)](#)

The family is responsible for correcting inspection failures caused by:

- Family paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear.
- Infestation and damage to the unit caused by infestation due to housekeeping.

BHA will terminate the family's assistance if the family:

- Fails to correct a violation within the period allowed by the BHA (and any extensions);
- Fails to allow the owner entry into the unit to complete repairs.

8.10 Owner Responsibilities

Link: [CFR 985.3\(f\)](#)

The owner is responsible for all HQS violations not listed as a family responsibility above. In order for a unit that has failed two consecutive inspections to be scheduled for a third inspection the owner must provide BHA with written certification that all deficiencies have been corrected. Only upon receipt of this certification will additional inspections be scheduled. BHA requires that the Owner or an authorized representative of the Owner participate in such re-inspections.

8.11 Rent Reasonableness

Link: [24 CFR 982.507](#); [982.305\(a\)](#); [982.505 9\(c\)\(3\)](#)

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent determined by BHA. Rent reasonableness determinations may be completed by BHA at any time and will be completed:

- At initial lease up
- When an owner requests a rent increase
- If the FMR is decreased by 5% or more

BHA will determine and document on a case-by-case basis that the approved rent:

- Is reasonable in comparison to rent for other comparable, unassisted units in the market, and
- Does not exceed rents currently charged by the same owner for an equivalent assisted or unassisted unit in the same building or complex.

Decreases in the Fair Market Rent:

In the event that HUD FMRs' decrease, BHA will allow families that are currently under a HAP contract to continue to use the payment standard in effect for the current lease. However, in the event that the family

moves to a new unit or in the event that the owner requests a rent increase, the new or current payment standard will be applied to the voucher.

Families under a HAP contract at the time of the decrease in the payment standard, the new decreased payment standard would be applied to those families' subsidy calculations at their second regular re-certification following the decrease in the payment standard amount.

Methodology

The BHA collects and maintains data on market rents in the BHA's jurisdiction for unit rent reasonableness. Information sources may include newspapers, Internet, realtors, market surveys, inquiries of owners, owner information listed on the RFTA, and other available sources. The data is maintained by bedroom size and market areas. In conducting rent reasonableness, BHA will determine if the rent to owner is reasonable rent in comparison to the rent for other comparable unassisted units. In making this determination, BHA will consider the following criteria:

- Location and age;
- Unit size including the number of rooms and square footage of rooms;
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise);
- The quality of the units including the quality of the original construction, maintenance and improvements made; and
- Amenities, services, and utilities included in the rent.

Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data is updated on an ongoing basis.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable unassisted units in the same market area. Attempts will be made to localize the unit within the city limits of Biloxi, Mississippi and areas of BHA's jurisdiction. The BHA will notify the owner of the unit's rent reasonableness amount. The owner may submit information about other comparable units in the market area within 10 calendar days of BHA's notification. The BHA will confirm the accuracy of the information provided and consider this additional information when making final rent reasonableness determinations.

By signing the HAP contract and accepting each monthly HAP payment, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. BHA will not consider rent increase requests until after the initial occupancy period and only if the unit is not in failed HQS status.

CHAPTER 9 - Housing Assistance Payment Contract

Link: [Form HUD 52641-a](#)

BHA makes every effort to execute the HAP contract with the owner as quickly as possible on or after the unit passes inspection and all required documents have been submitted. Required documents include:

- Executed lease between the owner and the participant
- Ownership and tax documents stated in the RFTA section of this Plan

9.1 HAP Payments

Link: [24 CFR 982.451\(a\)\(5\)](#)

Once the HAP Contract is executed, BHA will process housing assistance payments to the owner. The HAP contract is not effective until the unit has passed HQS. BHA is not responsible for any part of the rent prior to the date the unit passes inspection, and the HAP contract is fully executed.

BHA will make Housing Assistance Payments to the owner in accordance with the HAP Contract, as long as the family continues to occupy the unit and the contract is not in violation. By accepting the monthly HAP payment, the owner certifies that: the family is still in the unit, the owner is in compliance with the contract, the unit is HQS compliant, and that the rent to the owner is not more than the rent charged by the owner for comparable unassisted units.

The Housing Assistance Payment to the owner may never exceed the rent charged by the owner, and is the lower of the:

- Payment Standard minus the Total Tenant Payment, or
- Gross rent minus the Total Tenant Payment.

Late payment of HAP to the owner is subject to the late fees specified in the owner's lease. BHA is not responsible for payment of late fees caused by:

- The participant's late payment of rent
- Late HUD fund transfer
- HAP payments on hold (HQS, etc.)
- Any other HUD allowed reason and circumstances beyond BHA control.

Owner payments will be placed on hold if:

- The unit fails HQS
- Ownership of the unit has changed
- Unit ownership is in question
- Any other reason BHA determines that the HAP contract may have been breached

9.2 Owner Rent Increases

Link: [24 CFR 982.308\(g\)\(4\)](#); [982.309\(a\)\(3\)](#)

After the initial lease period, the owner may request a rent increase according to the terms in the lease. All rent increases must be submitted in writing to BHA by the owner, along with a copy of the rent increase notice to the participant. The owner must provide 60 days advance notice to the participant and the rent increase must be requested on the BHA Rent Increase Form.

BHA will advise the participant and owner if the rent increase is approved within 30 days of receiving the request from the owner. If approved, the rent adjustment will be effective the first day of month on or after the contract anniversary date or 60 days following receipt of the owner request on the first of that month, whichever is later. If the rent is not reasonable and the owner is unwilling to negotiate an approvable rent amount, the participant will be issued a voucher to move and the HAP contract will be terminated.

BHA may, due to HUD funding constraints, limit and/or suspend rent increases.

9.3 Unit Ownership Changes

BHA must receive a written request by the initial owner in order to change the HAP Contract payee and/or the address to which payment is to be sent. BHA will process a change of ownership provided the following documents are received from the new owner:

- Proof of ownership i.e., copy of escrow statement, deed of trust, or other document showing the transfer of title.
- Completed W9 with Social Security or Employee Identification Number
- In cases where the owner has elected to utilize the services of a property management company or has otherwise designated an agent to act on his/her behalf, BHA may request a copy of the management or agent agreement, a statement from the owner identifying the individual/s authorized to execute HAP Contracts on his/her behalf in addition to proof of ownership documentation.
 - The owner will be subject to a backup withholding by the BHA until the TIN/SSN is corrected.
- BHA utilizes direct deposit as the method of payment of HAP obligations.
- Owner Certification
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and

- A certification that the new owner is not a prohibited relative.
- When a change in ownership occurs, the new owner legally assumes the current lease and the current HAP contract. At BHA's or the new owner's request a new HAP contract may be executed, however the lease terms remain the same and new HAP term matches the existing lease.

9.4 HAP Contract Terminations

Link: [24 CFR 982.311\(b\)](#)

All terminations of a HAP contract initiated by BHA will be sent in writing to the owner and family. Automatic termination of HAP payments results when:

- A family vacates the unit either in violation of the lease or by mutual agreement with the owner before termination of the lease/contact
- The lease is terminated by the owner or the family
- The owner will not renew the HAP contract or extend the current lease
- The sole participant dies
- There has been no HAP for 180 calendar days
- BHA terminates assistance for the family
- HQS space requirements are not met, or the unit failed HQS and has not been repaired in the required timeframe
- Owner violations of the HAP contract
- Family obligation violations

BHA may terminate the HAP contract when HUD funding is insufficient.

No future subsidy payments on behalf of the family will be made by BHA to the owner after the month in which the Contract is terminated. The owner must reimburse BHA for any subsidies paid by BHA for any period after the contract termination date.

If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of rent due to the owner.

The owner may terminate the lease at the end of the lease term or at any time for lease violations. The owner must use the termination proceedings as prescribed in the lease and contract; the owner can:

- Institute court action, using the grounds for eviction cited in the lease;
- Try to obtain a mutual rescission of the lease with the participant. The mutual rescission must be signed by both parties and indicate the reason for the rescission.

- Issue proper notice not to renew the Lease Agreement.

If the owner has begun eviction and the family continues to reside in the unit, BHA will continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the family. HAP payment will stop the first of the month following the legal eviction or the date the family moves from the unit whichever is earlier.

If an eviction is due to other than lease violations and if BHA has no other grounds for the family's termination of assistance, and if the family is eligible to move; BHA may issue a new voucher to the family.

The owner may not terminate tenancy for the BHA's failure to pay the housing assistance payment.

CHAPTER 10 - Verifications

Links: [24 CFR 982.516](#), [24 CFR 982.551](#), [24 CFR 5.230](#), [24 CFR 5.609\(d\)](#); [Notice PIH 2010-19](#); [Notice PIH 2013-23](#), [HCV GB p5-17](#).

The family must supply any information that BHA or HUD determines necessary to the administration of the program and must consent to the BHA verification of that information. All adult applicants and participants must sign the [HUD-9886, Authorization for Release of Information](#). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Failure to sign consent forms or revocation of any previously signed consent form will result in denial of admission for applicants and lease termination for participants. The family will be informed of the denial or termination in accordance with BHA policies and will be provided information on requesting an informal hearing.

10.1 Methods of Verification

Link: [PIH Notice 2017-12](#)

BHA uses HUD's hierarchy of verifications, in the following order:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system and Income Validation Tool (IVT)
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification provided by applicant or participant
- Written Third party Verification Form
- Oral Third party Verification
- Tenant Declaration

EIV Verification Process

Link: [24 CFR 5.233](#);

The BHA uses HUD's Enterprise Income Verification (EIV) system to verify participant employment, earned income, unemployment benefits, and social security (SS), and supplement security income (SSI) benefits information at annual and interim re-certifications. The BHA will also use HUD's EIV system to monitor potential duplicate subsidies, deceased individuals, household member identity, under and non-reported income, and immigration status.

The BHA will inform all applicants and participants of its use of the following UIV resources during the admission and re-certification process: HUD's EIV system.

Requirements for Non-EIV Verifications

The BHA's requirements for non-EIV verifications provided by the applicant or participant are:

- Any third party documents supplied by the applicant or participant used for verification must be original or authentic documents and must be dated within 60 days of the request date. The documents must not be damaged, altered or in any way illegible.
- Printouts from web pages are considered acceptable documents.
- The BHA staff member who views the document will make a photocopy, note the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Third Party Written Verifications

Third party verification forms will be sent when third party verification documents are unavailable or are rejected by the BHA and will be sent directly to the third party.

The BHA will use review of documents in lieu of requesting third party verification when the market value of an individual asset or an expense is less than \$50,000 annually **and** the family has original documents that support the declared amount.

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

Third Party Oral Verifications

BHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

Tenant Declaration

When the BHA is unable to obtain third party verification, the BHA will document in the family file the reason that third party verification was not available. When information cannot be verified by a third party or by review of documents, family members will be required to submit tenant declarations attesting to the accuracy of the information they have provided to the BHA. BHA may require the family to certify that a family member does not receive a particular type of income or benefit. The tenant declaration must be made in a format acceptable to the BHA and must be signed by the family member whose information or status is being verified.

EIV Reports

BHA will utilize the EIV system by monitoring the following reports on a monthly basis:

- Deceased Tenants
- Identity Verification
- Immigration
- IVT Report based on reexamination schedule
- Multiple Subsidy Report

The information identified on these reports will be addressed immediately.

10.2 Eligibility Verifications

The following information will be verified to determine qualification for admission and continued occupancy to BHA's housing:

- Household composition, demographics and type (Elderly/Disabled/Non-elderly)
- Annual Income
- Assets and Asset Income
- Deductions from Income
- Social Security Numbers of all household members
 - Pending disclosure and documentation of social security numbers, the BHA will allow the family to retain its place on the waiting list for 30 days. If not, all household members have disclosed their SSNs at the next time a voucher becomes available, the BHA will offer a voucher to the next eligible applicant family on the waiting list.
 - Citizens and lawfully present noncitizens who state that they have not been assigned an SSN by the SSA will make such declaration in writing and under penalties of perjury to BHA.
 - If the family provides an unacceptable document, the BHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the BHA within 30 days.
 - If the family certifies that the required evidence is temporarily unavailable and it needs more time, the BHA may provide an extension of up to 30 days to submit evidence of eligible status, if the family has submitted the required declaration of eligible immigration status. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.
- Applicant Criminal History Information
- Citizenship or eligible immigration status

10.3 Legal Identity Verification

The BHA will require families to furnish verification of legal identity for each household member. A photo ID is required for each adult family member. Legal identity will be verified at application and on an as needed basis. Only the following identify documents are acceptable, in addition to the photo ID for each adult:

- Adults: Birth Certificate or Naturalization Papers
- Children: Birth Certificate, Adoption Papers, Court Award documents, Social Service Agency Award documents

Marriage Verification

A marriage certificate is required to verify that a couple is married. In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (filing joint income tax returns, joint bank statements, etc.).

Separation or Divorce Verification

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation of separately maintained residences (such as lease or utility bill) or from a community based agency will be accepted.

Adult Member Absence Verification

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., lease at another address or utility bill).

Foster Children and Foster Adults Verification

Third party verification from the state or local government agency responsible for the placement of the individual with the family is required.

Student Status Verification

The BHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head; or
- The family claims a child care deduction to enable a family member to further his or her education; or
- The family includes a student enrolled in an institution of higher education.

Student Head of Households

Link: [Federal Register / Vol. 81, No. 183 / Wednesday, September 21, 2016 / Notices](#)

BHA may provide housing assistance to Independent Student Head of Households who are defined by meeting one of the following characteristics:

- The individual is 24 years of age or older;
- The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;

- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
- The individual is a graduate or professional student;
- The individual is a married individual.

BHA will verify the Student Head of Household using the following:

- Previous address information to determine evidence of a separate household, or verifying the student meets the U.S. Department of Education's definition of "independent student";
- Reviewing a student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of "independent student"; and
- Written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (Except if the student meets the Department of Education's definition of "independent student").

Disabled Status Verification

For family members claiming disability who receive disability payments from the SSA, the BHA will use HUD's EIV system to verify the disability. If documentation from HUD's EIV System is not available, the BHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the BHA will ask the family to request a benefit verification letter by either calling the SSA at 1-800-772-1213, or by requesting it from www.ssa.gov.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third party verification that the family member meets the HUD definition of disability.

US Citizens and Nationals

Family members who claim US citizenship or national status will be required to provide additional documentation such as a birth certificate.

10.4 Verification of Income

Link: [Link: 24 CFR 960.259, 982.516](#)

BHA will not accept Safe Harbor income determinations. All income determinations will result from the verification methods described below.

Wage Verification

The BHA requires three or more current and consecutive paystubs for determining annual income from wages. If paystubs are not available, the BHA will accept an authentic document on employer letter head that states wages for previous 60 days, or an employer payroll print out.

Tip Income Verification

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certification of tips received for the prior year and estimated tips anticipated to be received in the coming year.

Bonus Income Verification

For persons who regularly receive bonuses or commissions, the BHA will verify, and then average amounts received for one year preceding admission or re-certification. The BHA will consider justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the BHA will count only the amount estimated by the employer.

Business and Self Employment Income Verification

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

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight line depreciation rules.
- The BHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future re-certifications.
- At any re-certification the BHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.
- If a family member has been self-employed less than three months, the BHA will accept the family member's certified estimate of income and schedule an interim re-certification in three months.
- If the family member has been self-employed for three to twelve months, the BHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

Social Security and SSI Benefits Verification

To verify the SS/SSI benefits of participants, the BHA will obtain information about social security/SSI benefits through HUD's EIV system. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the BHA will request a current SSA benefit verification letter from each family member that receives social security benefits.

If a family member is unable to provide the document, the BHA will help the participant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the BHA.

Alimony and Child Support Verification

BHA verifies alimony and child support differently depending on whether the family declares that it receives regular payments. If the family declares that it receives regular payments, verification will be sought in the following order.

- If payments are made through a state or local entity, BHA will request copy of the receipts and/or payment stubs for the 90 days prior to BHA request and request that the entity disclose any known information about the likelihood of future payments.
- Copy of the latest check and/or payment stubs
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
- Third party verification form from the person paying the support
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received

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

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

Zero Income Verification

The BHA will check EIV to determine zero income. BHA will require all adult family members to execute certification of zero family income and other verification forms to determine income such as unemployment benefits, TANF, SSI, etc. are not being received by the household. The family will also be required to complete a secondary interview and provide Internal Revenue Service tax returns, utility payment history report, and other documents as requested by BHA. Status of a household will be verified initially and every 90 days thereafter.

Student Financial Assistance

Link: [24 CFR 5.609\(b\)\(9\)](#)

For a student subject to having a portion of his/her student financial assistance included in annual income, the BHA will request written third party verification of both the source and the amount. Documents requested include:

- Family provided documents from the educational institution attended by the student
- Documents generated by any other person or entity providing such assistance, as reported by the student.
- Written verification of the student's tuition amount.

Verification of Parental Income of Students Subject to Eligibility Restrictions

If the BHA is required to determine the income eligibility of a student's parents, the BHA will request an income declaration and certification of income from the appropriate parent(s). The BHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the BHA. The required information must be postmarked within 15 business days of the date of the BHA's request or within any extended timeframe approved by the BHA.

The BHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters and other official and authentic documents from a federal, state, or local agency.

10.5 Verification of Assets

Link: [24 CFR 960.259](#), [982.516](#), [Notice PIH 2016-05](#)

For a family with net assets equal to or less than \$50,000, the BHA may accept the family's declaration that it has net assets equal to or less than \$50,000, verifying the accuracy of the declaration at admission and every three years thereafter. The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.

Assets Disposed of for Less Than Fair Market Value Verification

BHA accepts the family's self-certification of whether any assets have been disposed of for less than fair market value in the past two years. The BHA needs to verify only those certifications that warrant documentation. The BHA will verify the value of assets disposed of only if:

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

Income from Rental Verification

If the family owns a property, but does not have the legal right to reside in the property nor the effective legal authority to sell the property, the family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current participant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the BHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

Retirement Account Verifications

The BHA will accept written third party documents supplied by the family as evidence of the status of retirement accounts.

Before retirement, the BHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the BHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the BHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

10.6 Verification of Expenses

Expenses

Medical expenses will be verified by written third party documents provided by the family, such as pharmacy printouts or receipts. The BHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The BHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

BHA will also accept written third party verification forms. The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

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

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

Disability Assistance Expenses

Expenses for attendant care will be verified through:

- Written third party documents provided by the family, such as receipts or cancelled checks.
- Third party verification form signed by the provider if family-provided documents are not available.

Expenses for auxiliary apparatus will be verified through:

- Written third party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third party verification form signed by the provider, if family-provided documents are not available.

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

To verify the family member enabled to work, the BHA will verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work. BHA will request third party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member(s) to work. To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

Child Care Expense Verification

The family is required to certify that the child care expenses are not paid by or reimbursed to the family from any source. The BHA will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

If a family member is seeking work, BHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment) or the BHA will request family-provided

verification from the agency of the member's job seeking efforts to date and require the family to submit to the BHA any reports provided to that agency.

In the event third party verification is not available, the BHA will provide the family with a form on which the family member must record job search efforts. The BHA will review this information at each subsequent re-certification for which this deduction is claimed.

If the family member is furthering education, the BHA will request third party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

The BHA will seek third party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

The type of care to be provided is determined by the family, but must fall within certain guidelines.

- The BHA will verify that the type of child care selected by the family is allowable.
- The BHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).
- The BHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.
- The actual costs the family incurs will be compared with the BHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the BHA will request additional documentation to support a determination that the higher cost is appropriate.

CHAPTER 11 – Ongoing Program Operations

11.1 Annual Re-Certifications

Links: [24 CFR 982.516](#); [24 CFR 5.612](#)

The BHA will conduct a re-certification of income and family composition annually. The BHA will begin the annual re-certification process approximately 120 days in advance of the scheduled effective date. If the family size has changed, BHA will increase or decrease the voucher size as appropriate at the annual re-certification. The annual re-certification will be effective on the first of the month.

The current utility allowance schedule will be used to complete the annual re-certification.

If any documents are missing from the file (social security cards, birth certificates, citizen declaration forms, etc.), the participant is required to provide the documents upon request (at annual re-certification, interim certification, or at any time requested by BHA).

The annual re-certification will not re-verify eligibility income limits except where the Head of Household is a full-time student.

BHA may follow up by telephone, email and/or require in-person appointments with participants, as needed to request additional information, seek clarification, review re-certification documents, and/or conduct quality control.

Participants will be provided up to two opportunities to complete the re-certification requirements within the prescribed timeframes. Persons with disabilities who require assistance completing required documents will be granted a reasonable accommodation to complete documents within prescribed timeframes. If all documents and information are not submitted to BHA within the timeframe, and any allowed extensions, the voucher will be terminated effective on the participant's re-certification effective date for the family's failure to comply with their family obligations. Termination processes begin after one failure to return mailed documents plus one missed appointment or two missed appointments.

[Streamline Verification for Fixed Income](#) [Notice PIH 2016-05](#)

For any family member with a fixed source of income, the BHA may determine that family member's income using a streamlined income determination by applying, for each fixed income source, the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount.

A family member with a fixed source of income is a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources: Social Security, Supplemental Security Income, Supplemental Disability Insurance; federal, state, local, or private

pension plans; annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

BHA will use a COLA or current rate of interest specific to the fixed source of income in order to adjust the income amount and will verify the COLA or current interest rate from a public source or through tenant provided, third party generated documentation. If no such verification is available, then the BHA will obtain third party verification of income amounts in order to calculate the change in income for the source.

For any family member whose income is determined by a streamlined income determination, the BHA will obtain third party verification of all income amounts every 3 years.

11.2 Interim Reexaminations

Link: [24 CFR 960.257, 966.4](#)

The family must report changes in income and/or household composition to BHA within 10 calendar days of the change. Families are not required to report cost of living adjustments to recipients of Social Security, TANF, Veteran's Assistance, and SSI.

Changes to Household Composition

Families must report all changes to household composition that occur between annual re-certifications in writing within 10 calendar days. The BHA will conduct interim re-certifications to account for any changes in household composition that occur between annual re-certifications.

Household Additions

Families must request in writing BHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 days during any 12-month period (not a guest). If the family adds a member by birth, adoption or court-awarded custody, the family must notify BHA within 10 calendar days of the addition.

Following a receipt of a family's request for approval, the BHA will review eligibility. The BHA will not approve the addition of a new family or household member unless the individual meets the BHA's eligibility criteria and documentation requirements.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require larger voucher subsidy, the BHA will approve the addition only if the family can demonstrate that there are medical needs, including reasonable accommodations, that should be considered by the BHA.

If the BHA determines that an individual does not meet the BHA's eligibility criteria or documentation requirements, the BHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The BHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Participants who fail to notify the BHA of additions to the household, or who permit persons to join the household without undergoing eligibility, are in violation of the voucher. Such persons are considered to be unauthorized guests by the BHA, and the entire household will be subject to lease termination and eviction.

Household Member Removals

The resident must notify the BHA of a family member move-out within 10 calendar days of its occurrence. The family may either provide verification of the adult member move out, such as lease at another location, utility bills at another location or other third-party documentation that the family member is no longer part of the household.

Changes Affecting Income or Expenses

Interim re-certifications may be scheduled either because the BHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the BHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

Families must report when income source is changed excluding changing from one full time employer to another, receipt of an unscheduled increase in wages, or receipt of an increase in Social Security or SSI benefits not due to a reevaluation of benefits.

BHA-Initiated Interim Re-Examinations

The BHA will conduct interim re-certifications in each of the following instances:

- An increase in income from zero income.
- For families receiving the Earned Income Disallowance (EID), the BHA will conduct an interim re-certification at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12-month exclusion period (50 percent phase-in period).
- If at the time of the annual re-certification, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income) the BHA will schedule an interim re-certification to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual re-certification, resident-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the BHA will conduct an interim re-certification.

- The BHA may conduct an interim re-certification at any time in order to correct an error in a previous re-certification, or to investigate a resident fraud complaint.

Family-Initiated Income Interim Re-Examinations

A family may request an interim re-certification of family income or composition because of any changes since the last determination. BHA will process the interim re-certification within a reasonable time after the family's request and submission of all required documentation.

Interim Re-Examination Effective Dates

If the participant rent is to increase:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.
- If a family fails to report a change within the required time frame or fails to provide all required information within the required time frame, the increase will be applied retroactively, to the month following the change. The family will be responsible for any underpaid rent.

If the resident rent is to decrease:

- The decrease will be effective on the first day of the month following the month in which the change was reported, and documentation was received.
- The family will be notified of the new resident rent and effective date. The family must report changes in income expected to last more than thirty days and/or household composition to BHA within 10 calendar days of the change.

The family will be notified of the new participant rent and effective date.

11.3 Family Moves

Link: [24 CFR 982.1\(b\)\(2\)](#)

A family may request to move to a new unit if:

- The initial term of the lease has expired, and proper notice has been given to the landlord and to the BHA.
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family in writing
- For non-lease violations only: the owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the

owner to evict the family. The family must give the BHA a copy of any owner eviction notice, and eviction for lease violation may result in termination from the program.

- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the BHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit.
- The BHA has terminated the assisted lease for the family's unit for the owner's breach of the HAP contract.
- The BHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

Families will not be permitted to move if the BHA has issued a notice of termination for violation of the voucher or the policies of the BHA Administrative plan. Families will not be permitted to move more than once in a 12-month period unless required to do so by BHA to meet HQS or other program objectives, to protect the health or safety (including as a protection under VAWA), as a reasonable accommodation, or in the case of an emergency.

Families are not permitted to move in the first term of the lease or while in any subsequent lease term unless the owner and family mutually agree to do so. Situations such as witness protection program, victim of violent crime, medical necessity, employment necessity, and landlord caused failed HQS, may necessitate a move in the first term of the lease, or in the term of a subsequent lease. The circumstances must be documented in writing and approved by BHA. The owner and family must agree in writing to a mutual rescission of the lease in order for BHA to approve a move during the lease term. If the owner refuses to a mutual rescission, the family will not be allowed to move unless BHA otherwise determines VAWA or other health and safety provisions prevail.

Denial of Moves

Link: [Notice PIH 2016-09](#)

BHA will deny moves in the following circumstances:

- Applicants who are seeking to move under Portability who are not income eligible in the receiving PHA's jurisdiction.
- Participant families that have moved out of their assisted unit in violation of the lease. BHA will grant an exception to this in the situation where the only reason for the violation of the lease was due to circumstances surrounding being a victim of domestic abuse, dating violence or stalking.

- The BHA will deny a family permission to move on grounds that the BHA does not have sufficient funding for continued assistance if:
 - the move is to a higher cost unit (within BHA jurisdiction) or to a higher cost area (for portability moves);
 - the receiving PHA is not absorbing the voucher (applicable only to portability moves); and
 - BHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation for housing assistance payments (including any available HAP reserves).

This policy applies to moves within the BHA's jurisdiction as well as to moves outside it under portability.

In the event that BHA has denied a move due to insufficient funding, BHA will provide written notification to the local HUD Field office and to the family denying the request to move for this reason. BHA will advise the family that they may advise BHA if the request to move is due to a request for a reasonable accommodation or for protection due to domestic violence, dating violence or stalking (VAWA).

BHA will maintain a list of families who have been denied moving due to insufficient funding including the date of the original request and whether the request was due to a reasonable accommodation or VAWA. When funds become available, BHA will provide families notice and will begin to process requests to move in the order received – from oldest to newest – with preference to families whose request to move was due to a reasonable accommodation or VAWA.

Families who do not respond to the notification that funds are again available and may again request to move will be removed from the list held by BHA.

Duplicate Housing Assistance Payments with a Move

Link: [24 CFR 982.311\(d\)](#)

If a participant family moves from an assisted unit with continued participant based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy. HAP payments to a former owner beyond the month of the move into a new unit must be recaptured by BHA and may not be kept by the former owner.

11.4 Portability

Link: [24 CFR 982.353\(b\)](#); [PIH Notice 2016-09](#)

Outgoing Portability

Link: [24 CFR 982.353\(c\), \(d\)](#); [982.355\(c\)\(1\)](#);

The family must lease a unit within the BHA's jurisdiction for at least 12 months before requesting portability if they did not live in the BHA's jurisdiction at the time they applied for assistance. The BHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

Families must notify the BHA when they want to move out of the BHA's jurisdiction using the portability feature. Families that are new admissions to the HCV program must meet the income eligibility requirements both for BHA and also in the jurisdiction where the family intends to move to ("the Receiving PHA"). Participant families must also meet the income eligibility requirements in the area to which the family plans to move only (they will not be required to re-verify income eligibility with BHA). Families are informed of these requirements in the briefing session.

The BHA will approve no extensions to a voucher issued to an applicant or participant family porting out of the BHA's jurisdiction except under the following circumstances:

- the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving BHA; or
- the family decides to return to the initial BHA's jurisdiction and search for a unit there.

Incoming Portables

BHA may absorb or administer some or all incoming portable vouchers based on funding available.

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

The BHA may not change its determination to bill or to absorb a voucher after that without the approval of the initial PHA.

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

CHAPTER 12 - Denial of Assistance to Applicants and Termination of Assistance to Participants

Links: [24 CFR 982.552\(a\)\(2\)](#); [24 CFR 982.553\(a\)](#)

12.1 Evidence and Considerations

The BHA may consider all relevant circumstances in evaluating a decision to terminate or deny assistance. Evidence of criminal activity includes, but is not limited to engaging in and/or any record of convictions, arrests, or evictions for suspected criminal activity of household members within the past 3 years.

The BHA will use the preponderance of the evidence as the standard for making all admission decisions. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants, evidence gathered by BHA inspectors and/or investigators, and evidence gathered from the BHA incident reports.

The BHA will consider the following factors prior to making its denial or termination decision:

- Evidence of the applicant or participant's participation in or willingness to participate in social service or other appropriate counseling service programs
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
 - The BHA will require the applicant/participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- Whether the cause of the unfavorable information may be that the applicant/participant is the victim of domestic violence, dating violence, sexual assault or stalking.
 - The BHA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to a unit, a prior arrest record) that would warrant denial under the BHA's policies. Therefore, if the BHA makes a determination to deny admission to an applicant family, the BHA will include in its notice of denial/termination a statement of

the protection against denial provided by VAWA and a description of BHA confidentiality requirements.

- A request that an applicant/participant wishing to claim this protection submit to the BHA documentation meeting the specifications below with her or his request for an informal review for an applicant and an informal hearing for a participant.
- The existence of mitigating factors, such as loss of employment or other financial difficulties.
- If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission or termination of assistance, the BHA will determine whether the behavior is related to the disability. If so, upon the family's request, the BHA will determine whether alternative measures are appropriate as a reasonable accommodation. The BHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial or termination.

12.2 Denial of Assistance

BHA is required to deny admission if the applicant has:

- Engaged in criminal activity
- BHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to a peaceful enjoyment of the premises by other participants.
 - In determining reasonable cause, BHA will consider all credible evidence, including but not limited to, any record of convictions, arrests or evictions of household members related to the use of illegal drugs or the abuse of alcohol. BHA may, at its discretion, also consider evidence from treatment providers or community-based organizations providing services to household members.
- Any member of the household has been evicted from federally assisted housing in the last 3 years for drug related criminal activity. A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.
- Any household member is currently engaged in or has engaged in the use of illegal drugs in the past three years.
- Any household member has ever been convicted of drug related criminal activity for the production or manufacture of methamphetamine in any location, and/or on the premises of federally assisted housing.
- Any household member is currently registered as a sex offender under any State registration requirement, regardless whether it is for life time or not.

- The family fails to provide required documentation and/or fails to sign and submit any required consent forms.
- The head of household and/or spouse or co-head has been evicted from federally assisted housing in the last two years for anything other than drug related criminal activity.
- Has any household member who illegally possesses weapons.
- Any other HUD required reason.

The BHA will deny admission to an applicant family if the BHA determines that any household member is currently engaged in or has engaged in any of the activities within the past three (3) years.

- Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.
- Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. Criminal activity that may threaten the health, safety or welfare of other participants.
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other participants.
- Has been evicted from housing or termination from assisted housing programs (considering relevant circumstances).
- Owes rent or other amounts to this or any other BHA or owner in connection with any assisted housing program.
- Misrepresented or does not provide complete information related to eligibility, including income, expenses, family composition or rent.
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The applicant or any member of the applicant household is a former participant of a BHA public housing, or a former participant in the BHA Housing Choice Voucher program, who had a record of lease violations or whose tenancy was terminated by the BHA or private landlord. No previous participant may be readmitted unless all previous amounts owed have been paid to BHA; but payment of such debt does not necessarily entitle an applicant to eligibility under this section unless BHA has agreed in writing to grant eligibility upon payment of amounts due.
- Has engaged in or threatened violent or abusive behavior toward BHA personnel

- Abusive or violent behavior towards BHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- A pattern of abuse of alcohol, including, but not limited to, public intoxication and driving while intoxicated. A pattern (for the purposes listed above) consists of three or more incidences, with a minimum of one incident occurring within the past year.
- Any other HUD required reason.

12.3 Notice of Denial

BHA will notify applicant families in writing of any decision to deny assistance. The Notice will include notification of occupancy rights under the Violence Against Women’s Act (HUD Form 5380) as well as the procedure to request informal review.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the BHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 days to dispute the accuracy and relevance of the information. If the family does not contact the BHA to dispute the information within that 10 day period, the BHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

12.4 Denial of Assistance for Noncitizens

Link: [24 CFR 5.514\(d\)](#)

Denial of assistance based on immigration status is subject to special hearing and notice rules. The BHA will notify applicant families of denial of assistance in accordance with HUD regulations. When BHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 days of the determination. The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the BHA. The informal hearing with the BHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice will inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

When the BHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the BHA will notify the family of the results of the USCIS verification within 10 business days of receiving the results. The family will have 30 calendar days from the date of the notification to request an appeal of the USCIS results, made by the family directly in writing to the USCIS. The family must provide BHA with a copy of the written request for appeal and proof of mailing within 10 calendar days of mailing the request to the USCIS.

The BHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

12.5 Grounds for Termination

Links: [24 CFR 982.455](#); [24 CFR 982.551](#), [552](#), [553](#); [24 CFR 5.514\(c\)](#); [24 CFR 5.218\(c\)](#); [24 CFR 982.311\(d\)](#); [Notice PIH 2010-3](#); [Notice PIH 2010-9](#)

Termination of assistance for a Program participant may include any or all of the following actions by BHA:

- Refusing to enter into a HAP contract or approve a lease.
- Terminating housing assistance payments under a HAP contract.
- Refusing to process or provide assistance under portability procedures.

BHA must terminate the participant family for the following reasons:

- Family choice

The family may request that the BHA terminate housing assistance payments on behalf of the family at any time.

- Family with Zero Assistance

If the family has received zero assistance in 180 days, BHA will terminate assistance. If the participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero. The family must notify the BHA of the changed circumstances and request an interim re-certification before the expiration of the 180 day period.

- Eviction

Link: [24 CFR 982.552\(b\)\(2\)](#), [24 CFR 5.2005\(c\)\(1\)](#)

The BHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

- Failure to provide consent

Link: [24 CFR 960.259](#)

The BHA will terminate the lease if any family member fails to sign and submit or revoke any consent form s/he is required to sign for any re-certification.

- Failure to document citizenship

Link: [24 CFR 5.514](#); [24 CFR 960.259](#)

The BHA will terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members

If the BHA determines that a family member has knowingly permitted an ineligible individual to reside in the family's unit on a permanent basis.

- Failure to Disclose SSN:

Link: [24 CFR 5.218](#), [24 CFR 960.259](#)

The BHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the family's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency, if there is a reasonable likelihood that the family will be able to disclose an SSN by the deadline.

- Threat to Other Participants

The BHA will terminate the lease when any household member engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other participants or by persons residing in the immediate vicinity of the premises.

- Methamphetamine Conviction

Link: [24 CFR 966.4](#)

The BHA will immediately terminate the lease if BHA determines that any household member has ever been convicted of manufacture or production of methamphetamine in any location, and/or on the premises of federally assisted housing.

- Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation

The BHA will terminate the lease if the BHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

- Other Serious or Repeated Violations of the Family Obligations of the HCV Program

- Fugitive Felon or Parole Violator

- If a participant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state laws. Person subject to sex offender registration requirement.

If any member of the household has, during their current participation in the HCV program, become subject to a registration requirement under a state sex offender registration program regardless whether it is for life time or not.

- Crime On or Off the Premises
 - Drug related convictions; Alcohol related convictions (if it indicates an ongoing pattern); Fraud;
 - Acts of violent behavior convictions; and or Crimes of violent behavior

Applicants/participants must report any convictions from criminal activity which occurs after the application review (this includes residents, participants and those that have not yet moved into BHA assisted housing program(s)).

BHA will allow applicants and participants to address and present mitigating circumstances regarding criminal background checks prior to final decision.

HCV Program Violations That May Lead to Termination

- Discovery of facts after admission to the program that would have made the participant ineligible.
- Discovery of false statements or fraud by the participant in connection with an application for assistance or with a re-certification of income.
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the BHA to make determinations with respect to rent, eligibility, and unit size.
 - Information not provided: After issuance of the termination notice, but before the effective date of the termination, the participant may provide the missing data. It is solely BHA's discretion whether to accept the data or to proceed with termination.
- Missed appointments per policy and procedure requirements.
- Failure to transfer to an appropriate size unit based on family composition, upon notice by the BHA that such a move is required for HQS compliance.
- Failure to permit access to the unit by the BHA after proper advance notification for the purpose of performing routine inspections.
- Failure to inform the BHA within 30 days of the birth, adoption or court-awarded custody of a child.
- If the family has breached the terms of a repayment agreement entered into with the BHA.
- If a household member has engaged in or threatened violent or abusive behavior toward BHA personnel.
 - Abusive or violent behavior towards BHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

- Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Furnishing false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.
- If the family does not remedy family caused HQS failures in the required timeframe.
- If the family does not allow BHA to inspect the unit at reasonable times and after reasonable notice.
- If any family member commits lease violations, including but not limited to:
 - If the family does not give proper notice to BHA and the owner before moving out of the unit.
 - The family does not give BHA a copy of any owner eviction notice as required in this Administrative Plan.
 - If the family is not using the assisted unit for residence by the family and/or the assisted unit is not the family's only residence.
 - If the family has non-approved persons residing in the unit.
 - If the family does not promptly notify BHA that a family member no longer resides in the assisted unit.
- If the family engages in profit making activities in the assisted unit which are not incidental to the primary residential use of the unit.
 - Limitation on Profit Making Activity in the Unit:
 - If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it is considered a violation.
 - If BHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit.
- If the family subleases, lets, assigns the lease or transfers the unit.
- If the family does not notify BHA of an absence from the unit, and if the family does not provide BHA any requested information regarding the absence.
- If the family owns or has any interest in the unit.
- If any family member is receiving or received Section 8 participant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative housing assistance program.
- If the family breaches an agreement with BHA to pay amounts owed to BHA or amounts paid to an owner by BHA.
- Insufficient ACC funding to support continued assistance for families in the program. If the family fails to disclose to BHA any HUD notification it has received regarding discrepancies in the amount or verification of family income.

Any other HUD required reason.

Family Self-Sufficiency (FSS) Participants

BHA will not deny or terminate the Section 8 assistance if a family fails to comply with the Contract of Participation. However, PHA may take the following action against a Family Self-Sufficiency family:

- Withhold Supportive Services
 - If the family has repeatedly failed to comply with the requirements of the Contract of Participation and/or other rules outlined in the FSS Action Plan, the PHA will withhold supportive services.
 - The family will be notified of the action to be taken.
- Recommend probation or terminate the family's participation in the FSS Program.
 - If after counseling and negotiating with the family, they still fail to comply with the Contract of Participation, PHA will inform the family of the action to be taken (probation or termination of their participation in the FSS Program).
 - The family will have ten (10) days to request an informal hearing. The PHA will conduct the hearing and inform the family within ten (10) days of the hearing of their final decision.
- Withholding of the Escrow Account
 - If a family fails to comply with the Contract of Participation and they are terminated from participation in the FSS Program or they leave the program before completion, the escrow account will be forfeited according to current regulations.

12.6 Termination Notification

In any case where the BHA decides to terminate assistance to the family, the BHA will give both the family and the owner a 30-day written termination notice. However, if a family vacates the unit without informing the BHA, 30 days-notice will not be given. In these cases, the notice to terminate will be sent and effective at the time the BHA learns the family has vacated the unit. The notice of termination will state:

- Specific reasons for the termination
- Effective date of the termination
- Family's right to request an informal hearing
- Family's responsibility to pay the full rent to the owner if it remains in the assisted unit after the termination effective date
- Protection Rights under the Violence Against Women's Act

When a family requests to be terminated from the program they must do so in writing to the BHA. The BHA will then send a confirmation notice to the family and the owner within 10 days of the family's request, but no later than the termination effective date (as requested by the family).

12.7 Removal of a Family Member from the Application

Link: [24 CFR 982.552\(c\)\(2\)\(ii\)](#)

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application.

12.8 Reasonable Accommodation Related to Denials or Terminations

Link: [24 CFR 982.552\(2\)\(iv\)](#)

BHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

When applicants with disabilities are denied assistance, the notice of denial must inform them of BHA's informal review process and their right to request a review. In addition, the notice will inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process. If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, BHA will determine whether the behavior is related to the disability. If so, upon the family's request, BHA will determine whether alternative measures are appropriate as a reasonable accommodation. BHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

12.9 Repayment Agreements

If a family owes amounts to the BHA, as a condition of continued occupancy, the BHA may require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the BHA of the amount owed.

Any repayment agreement between the BHA and a family must be signed and dated by the BHA and by the head of household and spouse/co-head (if applicable). If the family chooses to enter into a repayment agreement, the BHA will require a minimum down payment of 25% of the amount owed. The term of repayment agreement will not exceed twenty-four (24) months, except as provided below. In no event will the BHA enter into a repayment agreement for retroactive rents whereby the monthly amount of the repayment plus TTP is greater than 40% of the family's adjusted monthly income.

Repayment Agreement Options

Tenants can repay in a lump sum; through a Repayment Agreement (installment payments), or a combination: paying a lump sum when the Repayment Agreement is signed and the remainder in monthly payments not to exceed 24 months.

Creating and Reporting Tenant Repayment Agreements

The total the tenant pays, for a combination of the TTP and the Repayment Agreement, will not exceed 40% of the family's monthly adjusted income for contract purposes but if the family wishes to pay more than the contract amount, they can.

The repayment agreement will be renegotiated when financial circumstances of the household change.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the BHA will terminate the family's tenancy and utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

Rules Governing Payments and Changes to Existing Agreements

A Repayment Agreement is a contract; the only provision for revising it is if the household's income changes.

The BHA generally will not enter into a repayment agreement with a family if:

- There is already a repayment agreement in place with the family;
- BHA determines that the family committed program fraud;
- The amount of the calculated payment based on tenant rent and repayment amount not exceeding the 40% maximum rent burden is insufficient to satisfy the debt within the 24-month period;
- The amount is greater than \$5,000, or the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

BHA may at any time not enter into a repayment agreement and instead terminate the family's tenancy and pursue alternative collection methods. If the family's assistance is terminated and repayment has not been made, the money will still be considered to be owed and may be reported in HUD's EIV system as a debt owed. BHA may take such action, as necessary, to collect the amounts owed.

CHAPTER 13 - Informal Reviews and Informal Hearings

BHA provides a copy of the Informal Review and Hearing procedures in the family briefing packet. When possible and allowed by regulation/law, BHA may conduct administrative reviews of informal hearing/review requests and provide alternate resolutions at its discretion before proceeding with the family's request for a review or hearing.

13.1 Informal Review Policy

Links: [24 CFR 982.554](#);

An applicant may request an informal review of the BHA's decision to deny the applicant's participation in the Housing Choice Voucher Program. Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

An applicant may request an informal review if the applicant:

- Is denied listing on the waiting list or for a preference
- Is denied a voucher
- Is denied participation in the Program including portability

Informal reviews will not be granted to applicants who dispute:

- The unit size (number of bedrooms) stated on the voucher.
- A determination that a unit does not comply with Housing Quality Standards including space requirements.
- A determination that a proposed lease is unacceptable.
- A decision to not approve a request for an extension of the term of the voucher.
- General policy issues, class grievances, or discretionary administrative determinations.

When the BHA determines that an applicant is ineligible for the program BHA will notify the applicant of their ineligibility in writing. The notice will contain:

- Reason(s) the family is ineligible
- Procedure for requesting a review if the applicant does not agree with the decision
- Time limit for requesting a review: The applicant must submit the written request for an informal review within 10 calendar days of the date of the denial notice.
- If the request is not submitted timely, it will mean that the applicant waived his/her right to request an informal review.

Informal review requests must be made in writing within the 10 calendar days from the date of the BHA's Denial. The informal review will be conducted by phone by a person or panel including other than the one who made 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 the BHA. The review decision will

be based only on evidence presented at the review by both parties. Evidence presented after the review but prior to the final decision may be considered.

The person or panel conducting the informal review will make a decision on behalf of BHA. If the informal review decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

13.2 Informal Hearing Policy

Link: [24 CFR 982.555](#)

Informal hearings may be requested for the following reasons:

- Determination of the amount of the total tenant payment or tenant rent
- Determination of hardship regarding minimum rent
- Decision to terminate assistance
- Decision to deny a family move
- Appropriate utility allowance used from schedule
- Family unit size under BHA subsidy standards
- Termination of a family's FSS Contract, withholding supportive services, or proposing forfeiture of the family's escrow account

BHA is not required to provide an informal hearing in the following cases:

- Discretionary administrative determinations by BHA, or to consider general policy issues or class grievances
- Determination that the unit does not comply with BHA's Housing Quality Standards including space requirements for family size, that the owner failed to maintain the unit in a decent, safe, and sanitary manner in accordance with the Housing Quality Standards (HQS), (including all services, maintenance, and utilities required under the lease).
- Decision to exercise any remedy against the owner under an outstanding contract, including the termination of Housing Assistance Payments to the owner
- Decision not to approve a family's request for an extension of the term of the Voucher issued to an assisted family which wants to move to another dwelling unit with continued participation
- Establishment of BHA schedule of utility allowances for families in the program
- Disapproval of unit or lease

When the BHA determines that a participant should be terminated from the program, BHA will notify the participant of their proposed termination in writing. The notice will contain:

- Reason(s) for and timing of termination,

- The date the proposed action will take place
- Procedure for requesting a hearing if the participant does not agree with the decision

Time limit for requesting a hearing: The participant must submit the written request for an informal hearing within 10 days of the date of the termination notice.

13.3 Conducting Informal Hearings

BHA hearings will be conducted by a single hearing officer or a panel. The BHA will appoint a person or panel who has/have been selected in the manner required under the hearing procedure.

Hearings may be attended by the following applicable persons:

- A BHA representative(s)
- Any witnesses for the BHA
- The participant
- Any witnesses for the participant
- The participant's counsel or other representative
- If the participant is bringing legal counsel to the informal hearing, the participant must notify BHA at least 24 hours in advance of the hearing.
- Any other person approved by the BHA will be as a reasonable accommodation for a person with a disability.

Hearing Decision

In rendering a decision, the hearing officer/panel will consider the following matters:

- BHA Notice to the Family
- BHA Evidence to Support the BHA Decision
- Participant Presented Evidence
- Validity of Grounds for Program Termination

Rights of the Applicant/Participant and BHA

The applicant/participant must appear in person at the hearing. The applicant/participant must either appear in person or participate by phone for the review, as scheduled by BHA. The applicant/participant may be represented by an attorney, or other representative, at his/her own expense. If the family is being represented by an attorney, the family must notify BHA of such 24 hours in advance of the review/hearing.

- The applicant/family and BHA have the right to present evidence, both oral and written.
- The applicant/family and BHA have the right to question any witnesses, and the right to state his/her case prior to the hearing officer's decision.
- The applicant/family has the right to arrange for an interpreter to attend the review/hearing, at his/her own expense.

- The applicant/family has the right to seek redress directly through judicial procedures of the court.
- BHA has the right to make final submissions.

The applicant/family and BHA have the right to review any documents directly relevant to the review/hearing. Review of documents will take place at the BHA office. Copying of any documents will be at the expense of the requesting party at .50 per copy. If the applicant/family or BHA does not make the document available for examination on the request of the other party, that document may not be relied on during the review/hearing.

Review/Hearing Process

The review/hearing will follow the following guidelines:

- The review will be conducted by any person or persons designated by BHA, other than a person who made or approved the decision under review or a subordinate of this person.
- All BHA Denial and Termination notices will advise the applicant/family of his/her right to a review/hearing and the process to request a review/hearing.
- The applicant/family must request the informal review/hearing in writing within the required time frame (10 days after receipt of notice from the BHA).
- BHA will schedule the hearing within a reasonable timeframe, preferably before the effective termination date. If the hearing cannot be scheduled before the effective termination date, the effective termination date may be extended, based solely on the reason for the delay and at the sole discretion of BHA.
- The notification of hearing will contain:
 - Date and time of the hearing
 - Location where the hearing will be held
 - Family's right to bring evidence, witnesses, legal or other representation at the
 - Right to view any documents or evidence in the possession of BHA and upon which BHA based the proposed action and, at the family's expense, to obtain a copy (at \$.50 per copy) of such documents prior to the hearing. Requests for such documents or evidence must be received no later than five business days before the hearing date.
- If a family does not appear at a scheduled review/hearing and has not rescheduled the hearing in advance, the hearing officer will assume the family is no longer interested in the program and will uphold the denial/termination.
- The applicant/family will be given an opportunity to present written or oral objections to BHA's decision.

BHA will notify the applicant/family of the BHA final decision after the informal review/hearing, including a brief statement of the reasons for the final decision. The notice will contain the following information:

- Applicant/family name
- Applicant/family address

- Date of notice
 - Date of review/hearing
 - Final decision
 - Brief statement of the reason(s) for the final decision
 - HUD regulation and/or BHA policy which is the basis for the denial/termination (if upholding the denial/termination)
 - Effective date of denial/termination (if applicable)
- A hearing decision letter will also be sent to the owner, stating whether the termination was upheld or overturned. The notice to the owner will contain the following information:
 - Family name
 - Unit address
 - Effective date of termination or
 - Effective date of re-instatement
 - All requests for review, supporting documentation, and a copy of the final decision will be filed in the family's file.

Decisions Not Binding to BHA

BHA is not bound by a review/hearing decision on the following matters:

- A matter for which BHA is not required to provide an opportunity for an informal review/hearing or otherwise in excess of the BHA of the person conducting the review/hearing.
- A decision given contrary to HUD regulations, requirements, or otherwise contrary to Federal, State or Local law.

In the event that a review/hearing decision is not binding to BHA, the Executive Director or his/her designee will send a notice to all parties attending the review/hearing that the decision is null and void. The notice will set a date and time for a new hearing.

Hearing Provisions for Restrictions on Assistance to Non-Citizens

Assistance to the family will not be delayed, denied, or terminated on the basis of immigration status at any time prior to the receipt of the decision of the USCIS appeal.

Assistance to a family will not be terminated or denied while the BHA hearing is pending. Assistance to an applicant may be delayed pending the BHA hearing.

13.4 USCIS Determination of Ineligibility

If a family member claims to be an eligible immigrant, and the USCIS SAVE system and manual search do not verify the claim, BHA will notify the applicant/family within ten calendar days of their right to appeal

to the USCIS within thirty calendar days or to request an informal hearing with BHA either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, they must give BHA a copy of the appeal and proof of mailing, or BHA may proceed to deny or terminate. The time period to request an appeal may be extended by BHA for good cause. Good cause includes medical emergency, employment emergency, family emergency, etc. The emergency must be documented in writing (doctor's statement, employer statement, independent agency statement, etc.)

The request for a BHA hearing must be made within 15 business days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within 15 business days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this Plan for both applicants and families. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the BHA will:

- Deny the applicant family.
- Terminate the family if the family does not qualify for deferral.

If there are eligible members in the family, the BHA will offer to prorate assistance or give the family the option to remove the ineligible members.

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Families whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights describes above) are entitled to a hearing based on the right to a hearing regarding determinations of Total Participant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

BHA's informal review and informal hearing procedures are stated in the BHA HCV Informal Review and Hearing Procedure.

CHAPTER 14 - Program Integrity

Link: 24 CFR [982.552\(c\)\(iv\)](#); [24 CFR 985](#)

The BHA anticipates that the majority of families and BHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. To ensure that the BHA's program is administered effectively and according to the highest ethical and legal standards, the BHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare. The BHA will:

- Provide each applicant and participant with a copy of "Is Fraud Worth It?"
- Provide each applicant and participant with a copy of "What You Should Know about EIV", and require receipt confirmation
- Review and explain the contents of all HUD and BHA required forms prior to requesting family member signatures
- Place a warning statement about the penalties for fraud on key BHA forms and letters that request information from a family member
- Provide each BHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

14.1 Detecting Errors and Program Abuse

The BHA will employ a variety of methods to detect errors and program abuse, including:

- Using the results reported in any independent audit or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the BHA's error detection and abuse prevention efforts.
- Encouraging staff, participants, and the public to report possible program abuse.
- Reviewing all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation.
- Investigating inconsistent information related to the family that is identified through file reviews and the verification process.

For each investigation, the BHA will determine:

- Whether an error or program abuse has occurred
- Whether any amount of money is owed the BHA
- What corrective measures or penalties will be assessed

14.2 Consideration of Remedies

All errors and instances of program abuse will be corrected prospectively. Whether the BHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the BHA will take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members
- Any special circumstances surrounding the case
- Any mitigating circumstances related to the disability of a family member
- The effects of a particular remedy on family members who were not involved in the offense.
- Increases in the participant rent will be implemented retroactively to the date of the un-reported increase. The participant may or may not be offered a repayment agreement, based on the seriousness and length of the unreported income.
- Any decreases in participant rent will become effective the first of the month following the discovery or retroactively if due to BHA error.
- In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. If the family fails to repay the amount owed, the BHA will terminate the family's lease.
- The BHA will reimburse a family for any family overpayment of rent retroactively to the effective date of the action the error as made. The reimbursement will be repaid as a credit to the family's Tenant Account Receivable primarily, or as a check to the tenant if there is no account to credit.

14.3 Family Prohibited Actions

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the BHA Board of Commissioners, employees, contractors, or other BHA representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the BHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member
- The BHA may determine other actions to be program abuse based upon a preponderance of the evidence.

14.4 BHA Prohibited Activities

Any of the following will be considered evidence of program abuse by BHA staff and Board Members:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant or participant

- Failure to disclose: direct interest; interest of a family member; or business interest in the HAP contract or rental subsidy.
- Seeking or accepting anything of material value from applicants, participants, owners, vendors, contractors, or other persons who provide services or materials to the BHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of BHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

When the BHA determines that program abuse by a family or BHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the BHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case may also be referred to the HUD Office of Inspector General (OIG). Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14.6 Owner Prohibited Activities

Link: [Title 18 U.S.C. Section 1001](#)

An owner participating in the HCV program must not:

- Make any false statement to the BHA.
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Charge rent in excess of rent for comparable unassisted units in the premises.
- Accept other consideration (from the family, the BHA, HUD, or any other public or private source) for rental of the contract unit during the HAP contract term.
- Rent to a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the BHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the BHA;
- Charging a security deposit other than that specified in the family's lease;
- Charging the family for services that are provided to unassisted tenants at no extra charge;

- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to the BHA Board of Commissioners, employees, contractors, or other BHA representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the BHA; or
- Residing in the unit with an assisted family.

Owner Remedies and Penalties

In the case of owner-caused errors or program abuse, the BHA will take into consideration (1) the seriousness of the offense; (2) the length of time since the violation has occurred; and (3) the effects of a particular remedy on family members who were not involved in the offense.

When the BHA determines that the owner has committed program abuse, the BHA may take any of the following actions:

- Terminate the HAP contract.
- Bar the owner from future participation in any BHA programs.
- Refer the case to state or federal officials including the HUD Office of Inspector General (HUD-OIG) for criminal prosecution.
- Require the owner to repay excess housing assistance payments.

BHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months. If the debt is large, the BHA may allow the owner to pay in installments over a period of time.

Corrections to Subsidy Payments

When an incorrect subsidy is identified as a result of an error, program fraud, misrepresentation or abuse, BHA will promptly correct the subsidy under- or overpayment. A subsidy under- or overpayment includes:

- An incorrect housing assistance payment to the owner;
- An incorrect family share established for the family; and
- An incorrect utility reimbursement to a family.

Families and owners will be notified of corrective actions and penalties, if any. Increases in the family share will be implemented only after the family has received 30 days advanced notice. Any decreases in family share will become effective the first of the month following the discovery of the error. The family will not be reimbursed when the family caused the underpayment.

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by BHA staff.

When efforts to collect money owed to the BHA (as described in the Family or Owner Remedies sections of this Plan) are unsuccessful, BHA may also pursue collection through credit bureaus, small claims court, civil lawsuit, state income tax set-off program or other debt recovery solutions.

CHAPTER 15 - Project Based Vouchers

Link: [24 CFR 983; HUD PIH Notice 2017-21](#)

Except as noted in this chapter, the Administrative Plan policies stated for the HCV program also apply to the PBV program.

15.1 Overview

The BHA may use up to 20 percent of Housing Choice Voucher authorized units for project-based assistance. RAD units are excluded from the percent calculation. The BHA may increase the use of Project Based Vouchers additional 10 percent for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or in areas where vouchers are difficult to use.

The proposed location of any PBV units must comply with the goals of deconcentrating poverty, expanding housing opportunities, and affirmatively furthering fair housing.

The BHA uses project-based vouchers to encourage new construction or rehabilitation, promote voucher utilization and increase supportive housing options.

15.2 Proposal Selection

Link: [24 CFR 983.52\(a\)\(b\)\(c\); §8\(o\)\(13\)\(B\) of the 1937 Act](#)

Prior to issuing a Request for Proposal or selecting a project without following a competition process where the PHA has ownership interest, BHA will submit to the local field office all required information under §8(o)(13)(B) of the 1937 Act. The BHA will select proposals for PBV assistance using either the Request for Proposal method or the Previous Competition method.

[BHA Request for Proposals Method for Rehabilitated and Newly Constructed Units](#)

The BHA will advertise request for proposals for rehabilitated and newly constructed housing in local newspaper(s) and on the BHA web site. The advertisement will specify the number of units the BHA estimates that it will be able to assist and the submission deadline. Incomplete proposals will not be considered.

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

- Owner experience and capability to build or rehabilitate housing as identified in the RFP
- Extent to which the project furthers the BHA goal of deconcentrating poverty and expanding housing and economic opportunities
- The extent to which services for special populations are provided on site or in the immediate area for occupants of the property
- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with

disabilities or families needing other services, the BHA will rate partially assisted projects on the percent of units that are available to receive assistance. Projects with the lowest percent of assisted units will receive the highest score.

BHA Requests for Proposals for Existing Housing Units

The BHA will advertise proposals for existing housing in local newspaper(s) and on the BHA web site. The advertisement will specify the number of units the BHA estimates that it will be able to assist. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant based program
- Extent to which the project furthers the BHA goal of deconcentrating poverty and expanding housing and economic opportunities
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

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

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

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

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

- Extent to which the project furthers the BHA goal of deconcentrating poverty and expanding housing and economic opportunities
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

15.3 Notice of Owner Selection

Link: [24 CFR 983.51\(d\)](#)

BHA will notify the selected owner in writing of the owner's selection for the PBV program pursuant to HUD requirements. BHA will notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

The BHA will make available its rating and ranking sheets and documents that identify the BHA basis for selecting the proposal for one month after publication of the notice. The BHA will not include sensitive owner information, such as financial statements, etc.

The BHA will make these documents available for review at the BHA during normal business hours. The cost for reproduction of allowable documents will be \$.50 per page.

15.4 Agreement to Enter into HAP Contract

Link: [24 CFR 983.152](#)

For rehabilitated or newly constructed units, BHA will enter into an agreement to Enter into a HAP Contract with the property owner. In the agreement, the owner agrees to develop the PBV contract units to comply with HQS, and the BHA agrees that upon timely completion of development the BHA will enter into a HAP Contract with the owner for the contract units.

The BHA will enter into an agreement with the owner after receiving both environmental review approval and notice that subsidy layering requirements have been met and before construction or rehabilitation work is started. Additional owner documents may be required. BHA will specify any additional documentation requirements in the agreement.

For existing housing, the HAP contract will be executed after BHA determines that all units pass HQS.

15.5 Site Selection Standards

Link: [24 CFR 983.57\(b\)](#)

BHA will follow HUD regulations regarding site selection requirements for existing housing, newly constructed housing and rehabilitated housing. Before entering into an agreement or HAP contract BHA will determine that the PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities.

In developing standards to apply in determining whether a proposed PBV development will be selected, BHA will consider the following:

- If the poverty rate in the proposed PBV development area is greater than 20%, BHA will consider whether in the past five years there has been an overall decline in the poverty rate;
- 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;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization;
- A census tract where there are meaningful opportunities for educational and economic advancement.
- The site meets HQS standards.
- Other factors as determined by BHA to meet the needs of the community.

BHA Owned Units

Link: [24 CFR 983.51\(e\)](#), [983.59](#)

HUD or a HUD-approved independent entity must review the selection process for BHA owned units to confirm appropriate selection. Initial rents and annual rent changes for BHA-owned units will be determined by the independent entity based on PBV program requirements. The term of the HAP contract and any HAP contract renewal must be agreed upon by BHA and the independent entity. HQS inspections will be performed by the independent entity.

Eligible Units/Cap on PBV Units

Link: [24CFR 983.52](#), [24 CFR 983.56\(a\)](#)

Project based assistance may be attached to up to 25% of the total number of units in a project. Project is defined as a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. Units occupied by the disabled, elderly, or that are eligible for families to supportive services (whether actually receiving services or not) are exempt from this cap.

15.6 Uniform Relocation Act

Link: [24 CFR 983.7](#), [49 CFR Part 24](#)

If as a result of the PBV selection, there are existing households that are determined to be ineligible for PBV; BHA will require the owner to comply with the Uniform Relocation Act and the implementing HUD regulations of the Act.

15.7 Housing Assistance Payments (HAP) Contracts

Link: [24 CFR 983.205](#)

Term of the HAP Contract

The term of all PBV HAP contracts will be no less than one year, and no more than 20 years, and will be negotiated with the owner on a case-by-case basis. Contracts may be extended for an additional term(s) not to exceed a total of 20 years (40 cumulative years).

Extending the HAP Contract

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

- The cost of extending the contract and the amount of available budget authority; The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities;
- The need for and availability of supportive services for the BHA population; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Amendments to the HAP Contract

The BHA will consider HAP contract amendments to add additional PBV units in the same building. The BHA will consider adding contract units to the HAP contract when the BHA determines that additional housing is needed to serve eligible low income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.
- Adding additional PBV units which include supportive services.

15.8 Unit Inspections

Link: [24 CFR 983.103](#)

All contract units will be inspected and comply with Housing Quality Standards prior to HAP contract execution. At least biennially during the term of the HAP contract, the BHA will inspect a random sample, consisting of at least 20 percent of the contract units to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections are not counted toward meeting this inspection requirement.

If more than 20 percent of the inspected units in a building fail, the BHA will re-inspect 100 percent of the contract units in the building.

In the case of a property assisted with project-based vouchers that is subject to an alternative inspection, the BHA may rely upon inspections conducted at least triennially to demonstrate compliance with the inspection requirement.

Inspections for the entire building will occur at the same time. BHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

In the case of BHA-owned units, the inspections will be performed by an independent agency designated by BHA and approved by HUD. The independent entity must furnish a copy of each inspection report to BHA and to the HUD field office where the project is located. BHA 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 BHA's-owner.

Lead based Paint

Link: [24 CFR 983.101\(c\), PIH Notice 2017-13](#)

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

15.9 Initial Rent and Rent Increases

Link: [24 CFR 983, Subpart G](#)

Initial Rent

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP Contract term. The rent to owner must not exceed the lowest of:

- An amount determined by the BHA, not to exceed 110 percent of the applicable fair market rent for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Rent Increases

For a project-based voucher property not converted through RAD, an owner's request for a rent increase must be submitted to the BHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

RAD converted properties will establish rent increases in accordance with the prevailing Operating Cost Adjustment Factors (OCAF).

15.10 Tenant Selection

Link: [24 CFR 983.255](#)

Except where noted in the Administrative Plan, the BHA's tenant selection procedures for its tenant-based programs apply for units assisted under the PBV Program. Except for units which are occupied by eligible tenants upon the commencement of the project-based contract term, when a vacancy exists at a PBV site, the BHA will notify the next families on the BHA Wait List. BHA's letter to the applicants will also state that if the applicant is interested in residing in the vacant PBV unit that the applicant will not lose his/her place on the BHA's HCV waiting list (if applicable) until that person has been leased in the PBV unit. An applicant who rejects an offer of a project-based unit or who is rejected by the owner of the housing unit will remain in the same position on the tenant-based assistance list, as if the offer had not been made. If a dwelling unit to which assistance is to be attached under the project-based voucher program is occupied, BHA must determine whether the unit's occupants are eligible for assistance. If a unit is occupied by an eligible family and the unit is selected by BHA, the family must be placed in an appropriately size project based assisted unit in the project without requiring the family to be placed on the BHA's waiting list.

In the event that there are an insufficient number of eligible persons on the waiting list, the BHA will place applicants referred by the owner on the waiting list. Eligibility for selection in the project-based voucher program will be consistent with the BHA's tenant based and project-based assistance programs.

The BHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for "excepted units," mobility impaired persons for accessible units). The BHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

Applicants must meet all BHA's applicable eligibility requirements. BHA will refer qualified applicants to the owner for all vacancies. If the BHA referrals do not provide the owner with a suitable tenant for the unit within 30 days, the owner may refer an eligible individual or family from the owner's waiting list to the BHA.

The owner chooses a tenant for occupancy from the qualified applicants referred by BHA based on their written tenant selection policy. The BHA must approve the owner's tenant selection procedures. When a family is approved by the owner, they will execute a lease with the owner.

The owner must notify the BHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy. The BHA will make every reasonable effort to promptly refer families to the owner after receiving a vacancy notice from the owner.

Properties Converted through the Rental Assistance Demonstration

Link: [24 CFR 903.7\(b\)\(2\)\(ii\)-\(iv\)](#)

The BHA will establish PBV waiting lists for properties converted through RAD. BHA will ensure that applicants on BHA's public housing and HCV waiting lists are offered placement on the RAD project's initial waiting lists. Applicants from the PH and/or HCV waiting lists will be placed on the new PBV site-based waiting list(s) based on the date and time of their original application to the PH and/or HCV program.

15.11 Repayment Agreement in BHA Owned Properties

If a family owes amounts to the BHA as Owner of the project-based property/unit, as a condition of continued occupancy, the BHA may require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the BHA of the amount owed. Any repayment for rent or other charges due to the BHA will follow the terms set forth in **Section 12.9** except as follows.

Repayment agreements that are the result of damage to the property and/or unit that is subject to a claim for insurance will be subject to the following:

- Signed and dated by the BHA and by the head of household and spouse/co-head (if applicable)
- Require a down payment of 20% of the amount owed
- The term of repayment agreement will not exceed sixty (60) months.

15.12 Unit Moves/Transfers

Overcrowded, Under-Occupied, and Accessible Units

Link: [24 CFR 983.259](#)

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

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Choice Mobility

When the BHA offers a family, another project-based unit of appropriate size or in order to house a disabled family in an occupied accessible unit, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the BHA will terminate the housing assistance payments at the expiration of this 30-day period.

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

Moves Requested by the Tenant

Link: [24 CFR 983.261](#)

PBV vouchers are mobile: after one year, families have the option to leave the PBV unit and receive a tenant based voucher, if a voucher is available. The BHA will supply the owner with a referral for a new PBV tenant. Families who wish to relocate with continued assistance must inform the owner and the BHA in writing not less than 30 days prior to the date they plan to vacate the unit and in accordance with the lease. The BHA will then place the family on a Choice Mobility list according to the date and time of receipt by the BHA of written notification. The BHA will issue the next available tenant based voucher to families on the Choice Mobility list before proceeding to its regular HCV waiting list. Families from the regular HCV waiting list who have been notified of an eligibility appointment for a tenant based voucher will not be delayed from receiving their voucher.

Moves from Excepted Units

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

In all other cases, when BHA determines that a family no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception, BHA will provide written notice to the family and owner within 15 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, BHA will terminate the housing assistance payments at the expiration of this 30-day period. BHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member. BHA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to BHA, BHA will amend the HAP contract to reduce the total number of units under contract.

Required Moves

The BHA subsidy standards determine the appropriate unit size for the family size and composition. If the BHA determines that a family is occupying either a wrong-size unit, or

A unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the BHA must promptly notify the family and the owner of this determination, and of the BHAs offer of continued assistance in another unit.

The BHA will provide continued assistance either:

- (i) Project based voucher assistance in an appropriate-size unit (in the same project or in another project);

- (ii) Other project based housing assistance (e.g., by occupancy of a public housing unit);
- (iii) Choice Mobility move; or
- (iv) Other comparable public or private tenant-based assistance (e.g., under the HOME program).

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

Program Move of Participants

Vouchers for Program Moves are valid for 60 days and will not be extended, except as a reasonable accommodation or as protection under VAWA. The family must submit an acceptable RFTA within the initial voucher period or a move will not be approved. If the voucher expires and the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

If the family had vacated their assisted unit prior to locating a new unit and their program move voucher expires, no further assistance will be provided, and the family will be considered as having voluntarily left the program. The family will not be entitled to a review or a hearing.

Choice-Mobility

BHA provides a Choice-Mobility option to residents of RAD/PBV projects based on the following:

- Resident Eligibility: Residents have a right to move with tenant based rental assistance 12 months after the move-in date, subject to the availability of tenant based vouchers. Households must submit a written request after the 12-month period has expired if they wish to be issued a tenant based voucher. Households requesting tenant based vouchers will be reviewed and if the required 12 month RAD/PBV period has occurred, will be moved to the top of the HCV waiting list based on the date and time of their written request.
- The resident must be compliant with program rules, regulations and be current on their rent and other charges. No repayment agreement will be offered for any move out charges when transitioning from project based to tenant based assistance. Any debt incurred at the time of move out will be due and must be paid in full before their tenant based assistance can begin. If payment in full is not made, their voucher will be withdrawn and/or their housing assistance will be terminated.
- Any resident currently under a repayment agreement with BHA will continue making their monthly payments after moving to the tenant based program. If they miss two payments consecutively, they will be considered in default of the agreement and their assistance will be terminated. The amount of the debt will be reported to the EIV

system for debts owed and they will have to pay the balance in full in order to re-apply for housing assistance programs.

- The Choice Mobility Voucher when issued will be for a maximum of 60 days.
- Extensions granted in cases of Reasonable Accommodation and/or VAWA requests for a period not to exceed 180 days.

15.13 Vacancy Payments

[24 CFR 983.352](#)

The BHA will decide on a case-by-case basis if the BHA will provide vacancy payments to the owner. The HAP Contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments, which will in no event exceed 60 days.

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the BHA determines that the vacancy is the owner's fault.

If the BHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the BHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The BHA will require the owner to repay the amount owed.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must properly notify the BHA. In order for a vacancy payment request to be considered, it must be made within 15 days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the BHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the BHA within 15 days of the BHA's request, no vacancy payments will be made.

15.14 Resident Rights under RAD

Public housing units converted to assistance under Rental Assistance Demonstration (RAD) long-term Project Based Voucher (PBV) contracts are no longer subject to the public housing program rules. The former public housing units which have become PBV units are subject to the rules of the Section 8 program, as modified by a few rules specific to RAD converted units. These specific RAD-related rules apply a few important provisions of the public housing rules to the RAD converted units, even though they would not normally be applicable in the HCV context.

Right to Return

Any residents that need to be temporarily relocated due to rehabilitation or construction have a right to return to an assisted unit at the site once rehabilitation or construction is completed. If transferred, residents of the converting site have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

Residents of a site undergoing RAD conversion may voluntarily accept BHA's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the site after rehabilitation or construction is completed.

Renewal of Lease

Under RAD, the BHA must renew all leases upon lease expiration, unless cause exists. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum.

Resident Participation and Funding

Residents of RAD projects converting to PBVs have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and are eligible for resident participation funding.

Earned Income Disregard (EID)

Link: [24 CFR 5.617](#)

Tenants who are employed and are currently receiving the EID exclusion at the time of RAD conversion will continue to receive the EID after conversion. Upon the expiration of the EID, the rent adjustment will not be subject to rent phase-in. The rent will automatically increase to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities. However, that requirement is not in the public housing program, i.e. the units prior to conversion to RAD. In order to allow all RAD public housing conversion tenants who are employed and currently receiving the EID at the time of conversion to continue to benefit from EID in the PBV project, the provision limiting EID to only disabled persons is waived. The waiver only applies to public housing tenants receiving the EID at the time of RAD conversion to PBV.

Termination Notification

Link: [24 CFR 5.617](#)

The termination procedure for RAD conversions to PBV will require BHA provide adequate written notice of termination of the lease which will not be less than:

- A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, BHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction;
- 30 days in the case of nonpayment of rent; and
- 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period will apply.

Grievance Process

Link: [4 CFR 982.555\(a\)\(1\)\(i\)-\(iv\)](#)

For RAD converted PBV units, the additional RAD program rules apply:

- An opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to BHA (as owner) action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
 - For any hearing for participants, the contract administrator will perform the hearing.
 - For any additional hearings required under RAD, BHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or disputes between residents not involving the BHA (as owner) or contract administrator.

BHA (as owner) will provide opportunity for an informal hearing before an eviction.

Notice and other informal hearing policies are the same as stated in this Administrative Plan for the HCV program.