
Model Administrative Plan Policy Instruction Guide

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Instructions for Preparing Chapter 1: Overview of the Program and Plan

INTRODUCTION

This chapter contains information about the PHA and its programs with emphasis on the Housing Choice Voucher (HCV) program. It also contains information about the purpose, intent and use of the plan and guide.

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher Program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision schedule. The instructions also contain guidance for each chapter and how to use the document within your agency.

PART I: THE PHA

1-I.A. OVERVIEW

This section explains the origin of the PHA's creation and authorization, the general structure of the organization, and the relationship between the Board and the staff. **No policy decisions are required.**

1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

This section explains the origin of the PHA's creation and authorization, the general structure of the organization, and the relationship between the board and the staff. **No policy decisions are required.**

The City of Auburn Housing Authority and Lafayette Housing Authority

1-I.C. PHA MISSION STATEMENT

The PHA should have established a written mission to guide the agency in its operation.



Decision Point: What is the PHA’s mission statement? (Model plan, p. 1-2)

Things to Consider

- Mission statements are meant to communicate the purpose of the agency to people inside and outside the agency.
- The purpose or mission is the core of an organization. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.
- A mission statement should be clear and understandable and brief. It should be updated to reflect the agency’s current direction.
- A mission statement is adopted by the board of commissioners.
- To be fully understood and adopted by all, the management staff of the agency must set the example set forth in the mission statement.
- Mission statements should be posted and available for all employees.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA’s mission is to provide safe, decent and sanitary housing conditions for very low-income families and to manage resources efficiently. The PHA is to promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.

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- Option 2: Delete model plan language and substitute any of the mission statements or any combination of the mission statements as shown below.*

To serve our community's housing needs using all resources available.

To provide affordable housing for all residents through creative partnerships with public and private collaborators.

To provide quality housing opportunities to improve the lives of the citizens who are in need.

To provide safe, decent, affordable housing for eligible residents of the City of _____.

To provide affordable housing that is in good repair, to be stewards of public funds and trust, and to serve all customers with respect.

To do good by doing good business in offering a variety of housing opportunities for the community's citizens.

To provide affordable housing and quality customer service to families we serve.

To promote innovative housing communities and encourage clients to achieve self-sufficiency.

To help families and individuals with low incomes achieve greater stability and self reliance by providing safe, affordable quality housing and links to community services.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

1-I.D. THE PHA'S PROGRAMS

All of the PHA's programs are not covered by the administrative plan. If the PHA has Public Housing, the Admission and Continued Occupancy Policy covers that program.



Decision Point: Which PHA programs are covered by the administrative plan? (Model plan, p. 1-3)

Things to Consider

- Typically, the Housing Choice Voucher program would be listed in this section. However, you may administer some special programs which also should be listed here.
- If your PHA administers the Family Self Sufficiency (FSS) Program, you will want to specify that the HCV policies do pertain to families who participate in the FSS program. However, there is also an FSS action plan which addresses the operation and guidelines for the operation of the FSS program.

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Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA's administrative plan is applicable to the operation of the Housing Choice Voucher program.

Added the FSS Program



Option 2: Delete model plan language and substitute any of the following options which are applicable to your PHA as shown below.

The PHA's administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the following special programs:

Single room occupancy (SRO)

Congregate housing

Group home

Shared housing

Cooperative housing (excluding families that are not cooperative members)

Manufactured home (where family owns the home and leases the space)

Homeownership



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

This section of the plan is included to guide the PHA in making decisions and determining whether they are meeting the commitment of the agency to the public and to the families and owners served. **No policy decisions are required unless the PHA wishes to add to or delete the standards listed.**

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program. **No policy decisions are required.**

1-II.B. HCV PROGRAM BASICS

This section provides information on the basics of program operation. It is intended to assist the audience in understanding the program. **No policy decisions are required.**

1-II.C. THE HCV PARTNERSHIPS

This section provides an overview of the roles and responsibilities of the various parties involved in the operation of the Housing Choice Voucher program. If all parties understand their roles and responsibilities, the program operates more efficiently and effectively. The section is intended to assist the audience in understanding the program. **No policy decisions are required.**

1-II.D. APPLICABLE REGULATIONS

This section lists the regulations that are applicable to the housing choice voucher program and this administrative plan. **No policy decisions are required.**

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PART III. THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

This section explains the need for and purpose of the plan. . **No policy decisions are required.**

1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)

This section lists the regulatory requirements of the plan and the additional reasons for the plan language and topics covered. **No policy decisions are required.**

1-III.C. ORGANIZATION OF THE PLAN

The plan is organized to provide information to users in particular areas of operation. **No policy decisions are required.**

The Model Administrative Plan

The model administrative plan includes recommended language for each area in which the PHA has discretion or flexibility to adopt its own policies. To make the editing process easier, the model plan contains only **one version** of each policy – generally HUD’s safe harbor policy or the policy that seems to be common to most PHAs. *This means that if the model plan language works for your PHA, no cutting and pasting is required.*

HUD regulations and other requirements are described in detail in the model administrative plan with appropriate citations. They are also summarized in the policy guide as needed to assist in making decisions.

The Policy Guide and Instructions

The policy guide is a decision-making tool for PHA policy makers. You can use the guide as a checklist for evaluating your compliance with HUD requirements and for making decisions about local policies. PHA decision points are identified throughout this document with this symbol:



The policy guide provides recommended language and policy options and explains why the recommended language is used in the model plan.

- If you decide to adopt an alternative policy, you may edit or delete the NMA-provided language in the model plan, cut and paste another option from the policy guide, or develop and type in your own wording.

Before starting work on the revision, print out the Acrobat PDF files of the model plan pages and policy guide for each chapter. Read through the model plan and review the decision points in the policy guide to determine if you want to make any changes to the model plan. After you have edited the model plan, print out the revised chapter to update your hard copy and, and edit the table of contents (TOC) file if necessary to update the TOC for your plan.

Working with the Computer Files

On your hard drive or network drive, set up a *subdirectory* (such as ADMrev) for the administrative plan revision in your Adminplan or other directory in which you keep your documents. Copy the files for the plan and the guide chapters from the CD-ROM into that directory and use them as your working files. Store your CD-ROM in a safe place.

1-III.D. UPDATING AND REVISING THE PLAN

The PHA should have a strategy in place for updating the plan.



Decision Point: How often should the plan be updated? (Model plan, p. 1-15)

Things to Consider

- As regulations are published and effective, there will be decisions required of the PHA. Generally, when the regulation contains the word “may” (not “may not” which is mandatory), a decision is required. Decisions should be made in writing and incorporated into the plan to ensure consistent program operation by staff.
- There are various strategies to employ for updating the plan. It can be updated when a new regulation requires implementation. It can be updated at any other time, including quarterly, especially when the PHA sees the need for local decisions to ensure staff consistency in operation.
- By subscribing to the NMA revision service, plan and guide revisions will be sent directly to the PHA for incorporation in the Plan. These can be incorporated when received or on a pre-determined schedule.
- The PHA should review and update the plan at least once a year, and more often if needed to reflect changes in regulations or PHA operations. The model plan language states “as needed” to allow agency flexibility.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA will review and update the plan ~~at least once a year, and more often~~ if needed, to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

(1) Added or subtracted any exhibits at the end of the chapter? Yes No.

(2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.

Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.

Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 1: Overview of the Program and Plan

Instructions for Preparing Chapter 3: Eligibility

INTRODUCTION

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny assistance.

The first paragraph is introductory. **No policy decisions are required.**

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. This part provides information that is needed to correctly identify family and household members and to determine whether each household member and the family as a whole are eligible for admission to the program. The PHA must verify all eligibility-related information as discussed in Chapter 7 (Verifications). **No policy decisions are required.**

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

This section of the plan clarifies the meaning of the terms *family* and *household*, and presents HUD's definitions of the terms. HUD permits, but does not require, the PHA to elaborate on the definition of family.



Decision Point: Does the PHA wish to elaborate on HUD's definition of family? (Model plan, p. 3-3)

Things to Consider

- Although the PHA is permitted to elaborate on the HUD definition, the PHA cannot limit the definition of family in a way that discriminates against a protected class or other group protected under the HUD regulations.
- In the past, some PHAs required family members to be related by blood, marriage, adoption, or other operation of law in order to be considered a "family" by the PHA. However, the equal access final rule prohibits administrators of HUD-assisted housing from using this definition of family, since HUD-assisted programs must be open to all eligible individuals regardless of sexual orientation, gender identity, or marital status.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup [24 CFR 982.315; Notice PIH 2017-08]

The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance, with special considerations for HUD–VASH vouchers. Also, if a court determines the disposition of property between members of the assisted family, the PHA is bound by the court’s determination of which family members continue to receive assistance.



Decision Point: How will the PHA handle families who break up while on the waiting list? (Model plan, p. 3-4)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.



Decision Point: How will the PHA handle breakups of participant families? (Model plan, p. 3-4)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Decision Point: What factors will the PHA consider when determining which family members will remain on the waiting list or retain assistance? (Model plan, p. 3-4)

Things to Consider

- The voucher is a valuable resource and decisions about who gets assistance can be controversial. Having a policy that ensures consistency is important.
- Although each family situation will be somewhat different, the PHA can be consistent in what it takes into consideration. The model plan identifies some appropriate considerations. The PHA may not consider any factors that would discriminate against a protected class.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In the absence of a judicial decision or an agreement among the original family members, the PHA will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the PHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit.

If dependents are remaining members of a tenant family, and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

Instructions for Preparing Chapter 3: Eligibility

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who has been designated by the family as the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.



Decision Point: What criteria must an individual meet to be designated the head of household? (Model plan, p. 3-5)

Things to Consider

- The regulations do not give any clear way of designating the head of household when more than one family member would qualify. The model plan assigns the family the responsibility of designating a head of household.
- The model plan provides a clarification of who the family may designate as head of household. If "emancipated minor" (someone under 18 who has been designated as an adult for legal purposes) is not the terminology used in your state, you should edit the model plan accordingly.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family may designate any qualified 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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

This section specifies who may be considered a spouse, cohead, or other adult. A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].



Decision Point: How does the PHA define the term marriage partner? (Model plan, p. 3-5)

Things to Consider

- HUD guidance states that *spouse* means the marriage partner of the head of household. The model plan clarifies the meaning of the term marriage partner.
- In the case of spouse and cohead, the PHA policy includes the term "emancipated minor." If "emancipated minor" (someone under 18 who has been designated as an adult for legal purposes) is not the terminology used in your state you should edit the model plan accordingly.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A marriage partner includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: Can emancipated minors be designated as cohead? (Model plan, p. 3-5)

Things to Consider

- The term *cohead* is used by HUD to identify a family member who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse.
- A family can have only one cohead.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Minors who are emancipated under state law may be designated as a cohead.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

3-I.F. DEPENDENT [24 CFR 5.603]

Joint Custody of Dependents



Decision Point: How will the PHA determine whether or not dependents subject to joint custody arrangements will be considered part of the assisted family? (Model plan, p. 3-6)

Things to Consider

- Two major considerations in making this decision are whether or not the family has primary custody, and the amount of time dependents subject to a joint custody arrangement actually live in the household.
- The model plan states that a dependent in these circumstances must live in the unit 50 percent or more of the time, in order to be considered a member of the assisted family. This language is based on guidance in Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.
- This policy is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Section 6-I.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: How will the PHA handle the dependent deduction when two applicant or assisted families have joint-custody? (Model plan, p. 3-6)

Things to Consider

- When there are two separate households on the waiting list or receiving assistance, only one family will be allowed to claim the dependents as family members.
- The model language is based on guidance in Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.
- This policy is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Section 6-I.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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3-I.G. FULL-TIME STUDENT [24 CFR 5.603, HCV GB p. 5-29]

This section provides the regulatory definition of a full-time student. **No policy decisions are required.**

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

This section provides the regulatory definitions for the three terms listed. **No policy decisions are required.**

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

This section provides the regulatory definitions for these two terms. Key aspects of the definitions are provided in this section of the plan. The full definitions are included in Exhibit 3-1 at the end of the chapter. **No policy decisions are required.**

Instructions for Preparing Chapter 3: Eligibility

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is a person temporarily staying in the assisted unit with the consent of a member of the household who has express or implied authority to so consent.



Decision Point: How long will the PHA permit an individual to stay with an assisted family as a guest before this person must be considered a family member? (Model plan, p. 3-7)

Things to Consider

- The PHA's major concern is to avoid instances of program abuse in which an individual receives the benefit of HCV assistance on a continuing basis, but the family does not report the individual's income. Although any rule will be hard to enforce and program abuse will be difficult to document, the PHA's plan should specify the policy that will guide the PHA's actions.
- The consecutive and cumulative days included in the model plan are not regulatory and may be changed, but the guest policy should not infringe on a family's ability to have legitimate guests.
- In the model plan, the guest policy does not apply to children that are subject to joint custody arrangements or for whom a family has visitation privileges. In addition, other exceptions may be granted by the PHA for good cause, as long as the family can document that the guest has a residence to which they will return.
- If you change the policy here (the number of days a guest can remain in the unit), you will also need to change the policy in Section 11-II.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

This section discusses what types of relationships qualify as foster care.

Decision Point: How does the PHA define foster child? (Model plan, p. 3-8)

Things to Consider

- The HUD regulations do not provide a definition of foster child.
- The HCV Guidebook, p. 5-18, states that the payments received by a family for the care of foster children are only excluded if the payments are made through official foster care relationships with local welfare agencies. Although not stated explicitly, this implies that only children placed through official foster care relationships with welfare agencies are considered foster children.
- Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, provides a definition of foster child that is consistent with the statement in the HCV Guidebook. The model plan adopts this definition as PHA policy.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: Under what circumstances may a foster-child be approved to reside in a unit? (Model plan, p. 3-8)

Things to Consider

- PHAs have the discretion to adopt reasonable policies concerning residence by a foster child (or foster adult), and to define when PHA consent may be given or denied.
- This policy clarifies that foster children and adults may only be approved if their presence in the unit would not result in overcrowding according to HQS space standards.
- Section 11.II.B., New Family and Household Members Requiring Approval, includes a similar policy on the approval of a foster children and adults. If changes are made to the policy here, changes will also need to be made to the policy in Section 11.II.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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3-I.L. ABSENT FAMILY MEMBERS

This section of the plan includes a general policy regarding absent family members and then provides clarifications for specific types of absent family members.

The policies in this section also appear in Part I of Chapter 6. Therefore, if any changes are made to the policies here, they must also be changed in Chapter 6.

Definition of Temporarily and Permanently Absent



Decision Point: How will the PHA determine whether a family member is temporarily or permanently absent? (Model plan, p. 3-8)

Things to Consider

- It may or may not be financially advantageous for the family to continue to consider an absent person as a member of family. The model plan uses 180 days as the dividing line between temporary and permanent absences. This is not regulatory. However, the concept is consistent with the HUD regulation that addresses absence of the entire family.
- The definition of “temporarily” absent is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Chapter 6.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 3: Eligibility

Absent Students



Decision Point: When will students living away from home still be considered family members? (Model plan 3-8)

Things to Consider

- HUD rules do not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members.
- Since the earned income of a full-time student above \$480 is excluded from annual income, a family may benefit by continuing to count the student as a family member. In that case, the family would retain the dependent deduction. The student's presence in the family may or may not make a difference in voucher size.
- The policy in the model plan enables staff to assume the student is a family member unless evidence to the contrary is available or the family declares the student is no longer a family member.
- This policy is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Section 6-I.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

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



Decision Point: How will the PHA determine whether children in foster care have been temporarily or permanently removed from the household? (Model plan, p. 3-9)

Things to Consider

- The model plan says that the PHA will assume the child is temporarily absent unless it is clear that the child has been permanently removed. This approach ensures that the PHA will not hinder return of a child because of questions about the adequacy of the family's housing. This policy also ensures that all staff will be consistent in their handling of absences due to foster care placement when a decision about permanent care has not yet been made.
- This policy is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Section 6-I.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Absent Head, Spouse, or Cohead



Decision Point: Will the PHA permit an exception to the 180-day rule for absent persons in the case of an absent head, cohead or spouse? (Model plan, p. 3-9)

Things to Consider

- The model plan makes an exception for persons designated as the head, cohead, or spouse if the reason for the absence is employment. This would include, for instance, a head of household who does construction work in another state, or a spouse who has been called to active military duty. In such circumstances, the absent family member remains a member of the family and all of the employment income is considered available to the household.
- Alternatively, the PHA could follow the general 180-day policy, determine that the absent person is no longer a member of the family, and count only regular income that the absent person sends to the family.
- This policy is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Section 6-I.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Option 3: Delete the model plan language.

Note: This means that a head, spouse, or cohead absent more than 180 consecutive days will not be considered a member of the family.

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Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].



Decision Point: How will the PHA determine whether a family member has been permanently or temporary confined for medical purposes? (Model plan, p. 3-9)

Things to Consider

- The *HCV Guidebook* specifies that a family member permanently confined to a nursing home or hospital is not considered a family member [HCV GB, p. 5-22]. The model plan includes this safe harbor language and elaborates on this guidance by establishing how the PHA will determine if the family member is permanently absent.
- Using the same regulation, Handbook 4350.3 (for multifamily housing programs) permits the family to decide whether to consider the person a family member, but specifies that a permanently absent family member cannot be the head or spouse. This policy is offered as Option 2. However, you should be aware that using this policy means not following HUD's safe harbor recommendation for the HCV program. Although a HUD reviewer could question the decision, using Option 2 should not result in a monitoring finding.
- This policy is also contained in Section 6-I.B., Household Composition and Income. If changes are made to the policy here, they must also be made in Section 6-I.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence.

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- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

An individual permanently confined to a nursing home or hospital may not be named family head, spouse, or cohead but may continue as a family member at the family's discretion. The family has a choice with regard to how the permanently confined individual's income will be counted. The family may elect either of the following:

Include the individual's income and receive allowable deductions related to the medical care of the permanently confined individual.

Exclude the individual's income and do not receive allowances based on the medical care of the permanently confined individual.

Return of Permanently Absent Family Members

- Decision Point: Under what circumstances will a former family member who has been determined to be permanently absent be permitted to return to the family? (Model plan, p. 3-9)**

Things to Consider

- The model plan clarifies that any returning adult must meet program eligibility and screening requirements again.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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3-I.M. LIVE-IN AIDE [24 CFR 5.403]

A family may request PHA approval for the household to include a live-in aide when necessary to provide supportive services for a family member who is elderly, near-elderly or a person with disabilities. This section describes the conditions under which someone can be considered a live-in aide, and the situations in which the PHA may deny or withdraw approval of a particular individual as a live-in aide.



Decision Point: How will the PHA process requests for live-in aides? (Model plan, p. 3-10)

Things to Consider

- The model plan requires the PHA to obtain third-party verification, as well as a certification from the family and live-in aide, to document that an individual qualifies as a live-in aide.
- The model plan clarifies that in certain situations, live-in aides will not be approved, or their approval may be withdrawn. Elsewhere in this chapter, the policy is clear that all household members, including a live-in aide, must meet the mandatory eligibility requirements.
- The model plan gives the PHA 10 business days (the standard throughout much of the plan) to make the determination and notify the family regarding the approval or disapproval of a live-in aide.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. **For continued approval, the family must submit a new, written request-subject to PHA verification-at each annual reexamination.**

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; or

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

The PHA will notify the family of its decision in writing within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

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PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

This section briefly describes HUD requirements regarding the establishment of income limits. **No policy decisions are required.**

Types of Low-Income Families

This section provides the HUD definition of low-, very low-, and extremely low-income families. **No policy decisions are required.**

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits.



Decision Point: How will the PHA define "continuously assisted?" (Model plan, p. 3-11)

Things to Consider

- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act is eligible for HCV assistance.
- The intent of the regulation is to protect families that may be moving from another form of 1937 Act assistance such as public housing, moderate rehabilitation, or project-based vouchers. It also is intended to cover unavoidable gaps in assistance (e.g., when a family must move out of one unit before they are approved for tenancy in another).
- It would be possible for the PHA to implement a policy that stipulates the length of the gap that may take place between leaving one type of assistance and actually beginning to receive HCV assistance. This approach deals more directly with the actual receipt of assistance. However, delays in processing a family's assistance could produce too long a gap, resulting in a family that loses assistance due to processing errors. The policy provided in the model plan avoids this type of difficulty.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA 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 selected from the PHA's waiting list.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: Will the PHA establish any additional categories of low-income persons who may be determined eligible? (Model plan, p. 3-12)

Things to Consider

- HUD permits the PHA to establish additional categories of low-income families that may be determined eligible.
- If the PHA has established a preference for persons displaced by local government action or the local government is undertaking revitalization activities that may displace low-income households, the PHA should consider designating these families as exceptions.
- The model plan assumes that the PHA has not established any additional categories.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA has established its income limit for initial eligibility as the low-income limit.



Option 2: Delete model plan language and substitute language as shown below.

The PHA will utilize the low-income limit for all applicants.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Using Income Limits for Targeting [24 CFR 982.201]

This section discusses HUD's requirement that at least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. **No policy decisions are required.**

Instructions for Preparing Chapter 3: Eligibility

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Overview

This section states that housing assistance is available only to individuals who are U.S. citizens, U.S. nationals, or noncitizens that have eligible immigration status, and that prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. **No policy decisions are required.**

Declaration [24 CFR 5.508]

This section discusses HUD's requirement that each family member declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. **No policy decisions are required.**

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request documentation of their status.



Decision Point: Under what circumstances will the PHA require the family to provide additional documentation for family members who claim to be citizens or nationals? (Model plan, p. 3-13)

Things to Consider

- In order to ensure that all families are treated consistently, the PHA should adopt criteria for determining when additional documentation will be requested. The model plan limits this type of request to circumstances where the PHA has information suggesting that the family's self-report may not be accurate. If your PHA has encountered significant problems with incorrect declarations of citizenship, you could require all applicants to provide documentation. However, this would place an additional verification burden on the PHA.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Family members who declare citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

Instructions for Preparing Chapter 3: Eligibility

- Option 2: Delete model plan language and substitute language as shown below.*

Family members who declare citizenship or national status will be required to provide documentation for verification purposes.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Eligible Noncitizens

This section describes the additional documentation and verification processes required for eligible noncitizens. **No policy decisions are required.**

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. **No policy decisions are required.**

Mixed Families

This section describes the definition of *mixed families* and explains that assistance will be prorated for such families. **No policy decisions are required.**

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

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements [24 CFR 5.512(a) and (b)].



Decision Point: Will the PHA provide assistance to a family before the verification of eligibility of at least one family member? (Model plan, p. 3-14)

Things to Consider

- The PHA may choose to provide assistance to a family prior to verifying the eligibility of at least one family member. However, if the PHA is ultimately unable to verify the eligibility of at least one family member, the PHA will have to terminate assistance adding an additional administrative burden to PHA staff.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: When will the PHA notify an applicant family that does not include any citizens, nationals, or eligible noncitizens, that assistance has been denied? (Model plan, p. 3-14)

Things to Consider

- The model plan gives the PHA 10 business days (the standard throughout much of the plan) to notify the family regarding the denial of assistance. The content of the notice of denial and the offer for an informal hearing are required by regulation.
- If the 10 business day time frame is changed here, it must also be changed in Section 16-III.D, USCIS Appeal Process.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When a PHA 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 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the PHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]



Decision Point: When will the PHA verify the citizenship status of applicants?
(Model plan, p. 3-15)

Things to Consider

- The model plan language states that citizenship status will be verified at the time all other eligibility factors are verified. This is to simplify and streamline the eligibility process.
- PHAs may choose to verify citizenship prior to other factors because of the length of time it may take to verify eligible noncitizens.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will verify the citizenship status of applicants at the time other eligibility factors are determined.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

This section describes requirements related to providing social security numbers to the PHA and refers the reader to Chapter 7 for additional information on verification. **No policy decisions are required.**

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]

This section describes the family's obligation to consent to the release of information needed to verify required information, and refers the reader to Chapter 7 for more details. **No policy decisions are required.**

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3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06, FR Notice 9/21/16]

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

Definitions

This section provides definitions that are needed to determine which students are affected by the eligibility restrictions.

Dependent Child

This definition is provided by HUD in an April 10, 2006, *Federal Register* notice; therefore, **no policy decisions are required.**

Independent Student



Decision Point: What criteria will the PHA use to determine if a student is “independent” from his/her parents, making an examination of the student’s parents’ income unnecessary? (Model plan, p. 3-18)

Things to Consider

- The April 10, 2006, *Federal Register* notice “Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance” provides suggested criteria for determining a student’s independence from his/her parents.
- The model plan language adopts the criteria in the notice. When describing the criteria, the notice states, “These practices and criteria include but are not limited to consideration of all of the following...” This language provides flexibility for a PHA to develop additional criteria if desired.
- One of the criteria used in the model plan relies on the definition of *independent student* from the Department of Education. Therefore, the definition is included in the policy language.
- On September 21, 2016, HUD issued the *Federal Register* notice “Eligibility of Students for Assisted Housing under Section 8 of the U.S. Housing Act of 1937; Additional Supplementary Guidance,” updating previous guidance on what constitutes an *independent student*. The notice revises the definition of *independent student* to reflect amendments made in 2007 to the Department of Education’s definition from the Higher Education Act of 1965 (HEA). The notice also provides that should a PHA determine that an individual is a *vulnerable youth*, such a determination is all that is necessary to determine a student is “independent” for eligibility purposes. The policy language below encompasses these changes.
- The model plan language refers to verification requirements in Section 7-II.E. If criteria are added in this section, the verification requirements in Section 7-II.E will need to be revised accordingly.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

The individual is of legal contract age under state law.

The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

The individual is at least 24 years old by December 31 of the award year for which aid is sought

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or 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 U.S. Armed Forces 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 married

The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)

Instructions for Preparing Chapter 3: Eligibility

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If the PHA determines that an individual meets the definition of a *vulnerable youth*, such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Institution of Higher Education

The definition of *institution of higher education* is contained in section 102 of the Higher Education Act of 1965. **No policy decisions are required.**

Parents



Decision Point: How will the PHA define *parents* for purposes of the student eligibility restrictions? (Model plan, p. 3-19)

Things to Consider

- The PHA must define the term *parents* in order to properly implement the new restrictions on student eligibility.
- The definition of *parents* is needed to determine which students are subject to the new eligibility restrictions. Students who reside with parents who are seeking or receiving section 8 assistance are not subject to the new law. It only applies to students who are seeking assistance on their own, separately from their parents.
- PHAs must also use the definition of *parents* to determine if a student is independent from his/her parents, and to determine whose income will be considered when the income eligibility of the parents is required in order for the student to be eligible for assistance.
- The model plan uses the same definition of *parents* in all of the above circumstances.
- The model plan language adopts the definition recommended by HUD and contained in the April 10, 2006, *Federal Register*, with one exception. The model plan language includes stepparents in the definition of parents as long as they are currently married to the biological or adoptive parent. This inclusion is consistent with Department of Education requirements for reporting income on a Free Application for Federal Student Aid (FAFSA).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc).



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Person with Disabilities

The definition of *person with disabilities* is contained in section 3(b)(3)(E) of the 1937 Act. **No policy decisions are required.**

Veteran



Decision Point: How will the PHA define *veteran* for purposes of the student eligibility restrictions? (Model plan, p. 3-20)

Things to Consider

- In the April 10, 2006, *Federal Register*, HUD recommends adopting the definition used by the Department of Veterans Affairs, since use of this definition is widespread in other federal programs.
- The model language follows this recommendation and adopts the definition of *veteran* from 38 U.S.C. 101(2).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A *veteran* is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Vulnerable Youth



Decision Point: How will the PHA define *vulnerable youth* for purposes of the student eligibility restrictions? (Model plan, p. 3-20)

Things to Consider

- In the September 21, 2016, *Federal Register* notice, HUD provides that an individual who meets the Department of Education’s *independent student* definition in paragraphs (b), (c), or (h) as adopted in Section II of the notice is considered a *vulnerable youth*. The notice also uses as examples of “vulnerable youth,” unaccompanied homeless youth, at risk of being homeless youth, and youth who have aged out of the foster system.
- The model language uses language specific to these paragraphs of the notice to define *vulnerable youth*. HUD’s examples of “vulnerable youth” are covered within these definitions.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A *vulnerable youth* is an individual who meets the U.S. Department of Education’s definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or 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 has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 3: Eligibility

Determining Student Eligibility



Decision Point: What actions will the PHA take to determine if a student that is subject to the eligibility restrictions in 24 CFR 5.612 is eligible? (Model plan, p. 3-21)

Things to Consider

- When implementing the student rule, the PHA must first determine who is subject to the eligibility restrictions and then determine whose income must be reviewed in order to determine eligibility.
- The model plan language identifies the steps the PHA must take to determine eligibility and the actions the PHA will take based on the outcomes of those determinations.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For any student who is subject to the 5.612 restrictions, the PHA will:

Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligible for the program

Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student’s parents are income eligible for the program

If the PHA determines that the student, the student’s parents (if applicable), or the student’s “family” is not eligible, the PHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 3: Eligibility

Determining Parental Income Eligibility



Decision Point: What actions will the PHA take to determine if a student's parents are income eligible? (Model plan, p. 3-22)

Things to Consider

- If the PHA determines that a student is not independent from his parents, the PHA must determine the income eligibility of the student's parents.
- The model plan language explains how the PHA will determine whether or not to consider the parents' income individually or jointly.
- If the student's parents are married or if the student's parent is single or widowed, the decision of whose income to consider is straightforward. However, if parents are divorced or separated, there may be extenuating circumstances to consider. The model language provides a framework for the PHA to make a decision about whose income to consider. This framework is based on Q & A's issued by HUD subsequent to the 4/10/06, *Federal Register* notice, and is therefore considered safe harbor.
- The model plan language clarifies that the PHA will use the income limits for the jurisdiction in which the parents reside when determining the income eligibility of the parents.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the PHA will determine the income eligibility of the student's parents as follows:

If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from both parents.

If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

This subsection identifies actions that a PHA can take that are considered denial of assistance. **No policy decisions are required.**

Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]

This subsection lists the factors that the regulation precludes the PHA from taking into consideration when making its determination of eligibility. **No policy decisions are required.**

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]



Decision Point: Will the PHA admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist? (Model plan, p. 3-~~24~~25)

Things to Consider

- If any member of the household has been evicted from federally -assisted housing in the last ~~three~~3 years for drug-related criminal activity, the family must be denied assistance. However, HUD permits the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., person involved in criminal activity no longer lives in the household).
- The model plan policy is based on the premise that a PHA can be reasonably sure that the behavior that caused a family to be previously evicted, will not occur again if the offending family member has either undergone rehabilitation, or is no longer a family member.
- If a PHA believes it is too risky to admit a family that has been evicted from federally -assisted housing in the last ~~three~~3 years for drug-related criminal activity, under any circumstances, the PHA may select Option 2.

Instructions for Preparing Chapter 3: Eligibility

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will not admit an otherwise-eligible family who was evicted from federally_-assisted housing within the past ~~3~~three years for drug-related criminal activity under any circumstances.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*



Decision Point: How will the PHA define *currently engaged in*? (Model plan, p. 3-2425)

Things to Consider

- To ensure consistency in the way staff handle denials of assistance, this term should be defined. You may wish to consult with your attorney to determine whether any state laws or tenant-landlord ordinances require the use of another definition. This same definition is contained in Chapter 12. If you choose to change the definition here, it may need to be changed in Section 12-I.E.
- Option 2 provides an exception to the definition for those enrolled in and compliant with treatment.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Delete model plan language and substitute language as shown below.*

Currently engaged in is defined as any use of illegal drugs during the previous ~~three~~ ~~six~~ months, unless the applicant is currently enrolled in and fully compliant with treatment.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 3: Eligibility



Decision Point: How will the PHA determine “reasonable cause” when trying to ascertain whether or not 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 peaceful enjoyment of the premises by other residents? (Model plan, p. 3-~~24~~25)

Things to Consider

- To allow for both consistency and flexibility, the model plan gives examples of evidence that will be considered when determining “reasonable cause,” but does not limit evidence to these categories.
- The model plan clarifies that a conviction will be given more weight than an arrest due to the more serious nature of a conviction.
- The model plan language calls for the PHA to consider positive evidence along with negative evidence. This type of approach is more fair to the applicant and is also consistent with the concept of preponderance of evidence discussed later in this part.
- If your PHA has established specific indicators to determine “reasonable cause,” the model plan language should be replaced or edited, to contain these indicators.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In determining reasonable cause, the PHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record or records of arrest will not be used as the sole basis of determining reasonable cause. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: Should the PHA deny assistance to a family if any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, rather than limiting it to activity that took place on the premises of federally assisted housing? (Model plan, p. 3-~~24~~25, 4th bullet)

Things to Consider

- The model plan uses the regulatory requirement rather than imposing a stricter policy. However, if you wish to impose the stricter policy, you may select Option 2.



Option 1: If you do not want to impose a stricter requirement than the regulations require, no policy is necessary and no changes to the model plan are needed.



Option 2: If you want to impose a stricter policy regarding those who have been convicted of the production or manufacture of methamphetamine, insert the following policy.

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied assistance.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

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

HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section. Whenever HUD gives the PHA discretion about denying assistance, the PHA will take into consideration the factors discussed in Section 3-III.E.

Criminal Activity [24 CFR 982.553]

Decision Point: For which criminal activities will the PHA deny assistance and how will the PHA define *reasonable time*? (Model plan, p. 3-~~25~~26)

Things to Consider

- The model plan language states that the PHA will deny assistance for any drug-related or violent criminal activity, or criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents, persons residing in the immediate vicinity, or the property management staff or contractors, if the behavior has occurred within the past five years.
- In defining what constitutes a reasonable period, the PHA will want to establish that the family member has refrained from committing prohibited offenses for a long enough time to justify a belief that the individual is likely to continue to maintain the good behavior.
- PHAs differ in their assessments of what constitutes a reasonable period. The model plan establishes a moderate standard by using three5 years. ~~A shorter period of 3 years is also acceptable.~~
- Many PHAs establish different timeframes for different offenses – the more serious the offense, the longer the period for which someone will be denied assistance. For example, a low-level non-violent offender does not pose the same risk as a convicted violent offender. If a PHA chooses to adopt a graduated schedule for criminal activities, it is important for the PHA to be familiar with the definition and categorization of criminal offenses under state laws.
- For ease of administration, the model plan establishes a single cut-off period.

Instructions for Preparing Chapter 3: Eligibility

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied assistance.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Decision Point: How will the PHA define *immediate vicinity*? (Model plan, p. 3-~~25~~26)

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Immediate vicinity means within a three-block radius of the premises.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 3: Eligibility



Decision Point: What type of evidence will the PHA consider when determining if someone has engaged in any of the prohibited criminal activities? (Model plan, p. 3-2526)

Things to Consider

- To allow for both consistency and flexibility, the model plan gives examples of evidence, but does not limit evidence to these categories.
- If your PHA has established specific indicators to determine whether or not someone has engaged in criminal activity, the model plan language should be replaced or edited, to contain these indicators.
- ~~The model plan clarifies that a conviction will be given more weight than an arrest due to the more serious nature of a conviction.~~
- If your PHA adopts a different time period for considering an applicant's criminal activity than in the default policy above, that change should be reflected in this policy.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Evidence of such criminal activity includes, but is not limited to:

Any conviction for drug-related or violent criminal activity within the past ~~three~~ 5 years.

Records of arrests for drug-related or violent criminal activity within the past ~~three~~ 5 years, although a record ~~or records~~ of arrest will not be used as the ~~sole~~ basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

~~Any record of eviction from public or privately owned housing as a result of criminal activity within the past 5 years.~~

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: Will the PHA consider mitigating circumstances when determining whether or not to deny an applicant family assistance? (Model plan, p. 3-~~25~~26)

Things to Consider

- The regulations allow PHAs to consider the specific circumstances of an applicant family when deciding whether or not to deny assistance. To ensure consistency in the treatment of families, these factors (or circumstances) must be defined. This section simply states that the PHA will consider the specific circumstances of each case. The plan defines these factors in Section 3-III.E.
- HUD regulations also allow PHAs to consider the preponderance of evidence when making a determination of eligibility. This information is also contained in Section 3-III.E.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing.



Decision Point: For which types of behavior will the PHA deny assistance? (Model plan, p. 3-~~26~~27)

Things to Consider

- The regulations allow PHAs to deny assistance based on violations of family obligations under a previous assisted tenancy. The model plan denies assistance for some, but not all, family obligations. In this plan, we have chosen to deny assistance only for the more serious violations.
- A PHA may want to review the family obligations under 24 CFR 982.551, to see if there are any additional obligations they would like to add to the list.
- With the exception of family obligation violations, the model plan states that the PHA will deny assistance for all the reasons listed under 24 CFR 982.552(c). In the case of a family previously engaging in criminal activity, this issue is addressed under the heading of Criminal Activity, rather than in this section. If a PHA does not want to deny assistance based on each of these criteria, the plan will have to be edited accordingly.
- While the law previously provided for discretionary denial of HCV program assistance if an HCV FSS family failed to comply with the requirements under the Contract of Participation, please note that this is no longer the case. Alternative requirements listed in FR Notice 12/29/14 brought HCV and public housing into alignment on this issue, thus allowing for better combined-program compatibility and eliminating any disincentive to FSS program participation termination may have presented.
- The model language includes a definition of abusive or violent behavior toward PHA personnel. This language matches language used in Chapter 12, Terminations. If you choose to edit this definition here, it should also be edited in Section 12-I.E.
- Similar to the previous policy, this policy also allows the PHA to consider specific circumstance when determining whether or not to deny an applicant family assistance.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

The PHA **will** deny assistance to an applicant family for a period of five years if:

The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted from federally-assisted housing in the last five years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

Instructions for Preparing Chapter 3: Eligibility

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

3-III.D. SCREENING

Screening for Eligibility

- Decision Point: Will the PHA perform criminal background checks on all adult household members or will the PHA establish another criterion for conducting criminal background checks? (Model plan, p. 3-~~2728~~)**

Things to Consider

- The model plan states that the PHA will conduct criminal background checks through local law enforcement for all adult household members.
- If the local law enforcement check comes back inconclusive, the policy states that the PHA will request information from the NCIC.
- The PHA may not pass along the cost of a criminal records check to the applicant or require the applicant to bear the initial cost to be reimbursed by the PHA upon receipt of the information. Therefore, PHAs may want to consider the expense involved in adopting this policy.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will perform a criminal background check through the local police department or TruDillegence for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information center (NCIC).

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 3: Eligibility



Decision Point: Will the PHA use a national database covering sex offender registries in all states to screen applicants for admission in lieu of asking for a complete list of all states in which any household member has resided? (Model plan, p. 3-2728)

Things to Consider

- Notice PIH 2012-28, issued June 11, 2012, states that applicants for admission into HUD-assisted housing programs must provide a complete list of all states in which any household member has resided for the purposes of screening out lifetime registered sex offenders.
- However, the notice offers as an alternative that the PHA use a national database covering sex offender registries in all states, if access exists. Whatever method the PHA chooses must be included in the administrative plan.
- In the notice, HUD encourages the use of the Dru Sjodin National Sex Offender Database, an online, searchable database that combines the data from individual state sex offender registries and other national, state, or local resources. The Dru Sjodin database is available at <http://www.nsopw.gov>.
- Because using such a database streamlines the process, and comes recommended in Notice PIH 2012-28, we have included it here as the default policy in place of asking applicants to provide lists.
- Note that per the FAQs on Notice PIH 2012-28, PHAs may not implement policies that automatically deny admission to applicants for the duration of their sex offender registration requirement, regardless of circumstances, if the registration requirement is less than life.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Screening for Suitability as a Tenant [24 CFR 982.307]

The PHA is permitted to conduct additional screening to determine whether an applicant is likely to be a suitable tenant and to deny assistance to families that do not meet the PHA's screening criteria.



Decision Point: Will the PHA conduct additional screening? (Model plan, p. 3-2829)

Things to Consider

- Screening is the owner's responsibility under the program. However, the PHA may be able to encourage more owners to participate in the program by providing additional screening services. The PHA would be taking on additional workload by having to verify information collected for screening, as well as potential liability if the PHA obtains faulty information and passes it on to the owner. For these reasons, the model plan states that the PHA will not do any additional screening.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: When will the PHA provide required information to the landlord, and will the PHA provide owners with information about a prospective tenant's past history beyond that required by HUD regulations? (Model plan, p. 3-~~2829~~)

Things to Consider

- HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the landlord at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information as long as families are notified that the information will be provided and the same type of information is provided to all owners. The PHA should be mindful, however, that it may not disclose to an owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].
- The model plan states that the PHA will inform owners of their responsibility to screen prospective tenants and provide owners with required address information at the time of the initial HQS inspection or before. This language builds in flexibility, by allowing the PHA to provide the information at any time, up until the initial inspection.
- Although the PHA may possess additional information about the family's history, such information should not be passed on to an owner unless it has been verified. As above, by deciding to provide such information to the owner, the PHA would be taking on both additional workload by having to verify information collected for screening and potential liability if the PHA obtains faulty or confidential information and passes it on to the owner. For these reasons, the model plan states that the PHA will not pass on any additional information to the owner.
- If you decide to pass on information to the owner, be sure to get legal counsel to ascertain whether the kinds of information that can be passed on are limited by state or local law.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required address information, at the time of the initial HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]



Decision Point: What standard of evidence will the PHA use to support denial of assistance for prohibited activities? (Model plan, p. 3-2930)

Things to Consider

- For violent and drug-related criminal activity, HUD permits the PHA to **terminate** assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.533(c)].
- In addition, in the moderate rehabilitation program, this standard of *preponderance of the evidence* may be used in a decision to **deny** or **terminate** assistance [24 CFR 882.514(g)(1)].
- Although the HCV regulations do not specifically address *preponderance of the evidence* as it relates to denial of assistance, the model plan extends this philosophy to cover the denial of assistance, and uses it as the standard for evaluating all grounds for denial of assistance, not just those related to violent criminal or drug-related criminal activity.
- This standard of using *preponderance of the evidence* is also consistent with the guidelines for making decisions in the informal hearing process [24 CFR 982.555(e)(6)].
- Whatever standard of evidence is selected here should match the standard selected in Section 12-II.C.
- The definition of *preponderance of the evidence* is the same as is used in Chapters 12, 14, and 16. Therefore, any changes made to the definition here must also be made in those chapters.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

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



Decision Point: What circumstances will the PHA consider when deciding whether to deny assistance? (Model plan, p. 3-~~29~~30)

Things to Consider

- Except in the cases discussed in 3-III.B., where denial of assistance is mandatory, HUD gives the PHA discretion about whether to deny assistance. HUD authorizes the PHA to consider all relevant circumstances and to impose the requirement that family members who participated in or were culpable for an offense not live in the unit.
- The regulation gives the PHA the authority to consider all relevant circumstances. By establishing a local policy about the kinds of circumstances that will be considered, the PHA can help ensure that staff consistently take the same types of information into consideration when making their decisions. If your PHA would prefer to include different or additional criteria in the policy, you will need to edit the model plan accordingly.
- The model plan clarifies that the PHA will consider these factors prior to making its decision to deny assistance, rather than waiting to consider the mitigating circumstances as part of the informal review process. This approach saves time for the family and the PHA and, in many cases, helps avoid holding unnecessary informal reviews that will ultimately result in the family being admitted.
- Notice PIH 2015-19 states that the fact that someone has been arrested does not itself prove that the person has engaged in criminal activity and is not an acceptable reason to deny assistance. Further, HUD does not recommend the adoption of a ‘one-strike’ policy for criminal activity. Therefore, the language in the model policy clarifies that the PHA will not rely on an arrest alone, but if evidence of an arrest is found as part of the screening process, the PHA will instead consider other factors and circumstances surrounding the arrest. While HUD has stated that it may be advisable to wait until the arrest disposition, PHAs may continue to obtain and review police reports, records of disposition of any criminal charges, or other evidence associated with the arrest in order to make an eligibility determination.
- If you wish to amend the model policy, bear in mind that HUD’s Office of General Counsel has stated that it is not acceptable to adopt blanket policies for denials for either arrests or convictions for criminal activity. Further, a policy that fails to consider the nature, severity, and recency of the circumstances surrounding an arrest or conviction may also be considered discriminatory under the Fair Housing Act.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

Any statements made by witnesses or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

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In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

The PHA is authorized to deny assistance unless the family agrees that a family member who participated in or was culpable for an offense will not live in the unit.



Decision Point: Will the PHA consider assisting the family if the culpable family member is removed from the application and will not live in the unit? (Model plan, p. 3-~~31~~32)

Things to Consider

- Allowing a family to continue to receive assistance when a culpable family member leaves can be a sensible way to accommodate the needs of family members who were innocent of wrong-doing. The regulation does not address the problem of such an individual returning to the unit as a guest. The model plan includes a policy that requires the head of household to certify that the individual will not be permitted to visit or stay in the unit. The PHA could choose a policy that restricts only whether the individual stays in the unit overnight, rather than restricting all visits. However, prohibiting visits as well as staying as a guest should facilitate administration of the policy by requiring that the individual stay away from the unit entirely.
- Prior to admission, the culpable family member may continue residing with the family. Once the family is admitted, however, if the PHA believes that the former family member is continuing to stay in the unit despite the head of household's certification, the policy in the model plan permits the PHA to require the family to provide information about the individual's new address as evidence that the person has not moved to the assisted unit with the family. Having such a policy stated explicitly should facilitate the PHA's efforts to ensure compliance with the family's commitment to deny the offending individual access to the unit.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.



Decision Point: Do you want to elaborate on how the PHA will handle requests for reasonable accommodations related to denial of assistance? (Model plan, p. 3-~~31~~32)

Things to Consider

- Some PHAs have experienced problems with offering reasonable accommodations to deal with family offenses. For example, some families request reasonable accommodations when the family member's disability was not related to the offense. Others have requested accommodations that will not prevent a recurrence of the offense. Policies elsewhere in the plan (see Chapter 2) discuss the PHA's obligation to offer reasonable accommodations to family members with disabilities. Here, the intent of the policy is to clarify that any accommodation must directly address the problem for which the denial of assistance is being considered.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the PHA will determine whether the behavior is related to the stated disability. If so, upon the family's request, the PHA will determine whether admitting the family as a reasonable accommodation is appropriate. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

This section presents HUD’s policies concerning notice to families. The PHA needs to define how quickly it will provide notice of denial to a family when the regulations specify that it must be provided promptly.



Decision Point: How long will the PHA have to notify the family of its decision to deny assistance? (Model plan, p. 3-~~3233~~)

Things to Consider

- HUD regulations stipulate what must be contained in a notice of denial. Therefore, these items are listed in the plan, but not under PHA policy.
- PHAs can provide additional information in the notice of denial such as the name and contact information for free or low-cost legal services. This type of information is helpful for applicants and can also contribute to a good working relationship with legal aid offices within your jurisdiction.
- HUD does not stipulate what constitutes “promptly.” For administrative convenience, the model plan uses the same 10 business day timeframe used for other notification periods.
- Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 3: Eligibility



Decision Point: If a criminal record or sex offender registration information is the basis of a denial, how long will the family be given to dispute the accuracy and relevance of the information before the PHA can move to deny the application? (Model plan, p. 3-~~3233~~)

Things to Consider

- The regulations require PHAs to provide an applicant the opportunity to dispute the accuracy and relevance of a criminal record or sex offender registration information before the PHA can move to deny the application, based upon the information in such a record, if the record was obtained under 24 CFR 5, Subpart J. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].
- The HCV regulations state that the PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].
- There appears to be somewhat of an inconsistency between the requirements in Part 5, which states that the family must be given the opportunity to dispute the record prior to any action being taken, and Part 982, which states that the family must be provided the opportunity to dispute the record in the informal review process. The model plan language adopts the more restrictive requirement and states that the PHA will provide the family with an opportunity to dispute the relevance and accuracy of a criminal record or sex offender registration information prior to the official denial of admission.
- The model plan language clarifies that the family will have 10 business days to dispute the criminal record information after being notified by the PHA of the proposed denial. It also clarifies that if a family does not exercise this right prior to denial, they will still have the opportunity to dispute the record through the informal review process.
- PHAs may want to consider extending the number of days applicants have to dispute criminal record information. Providing a longer period of time is helpful to applicants that are homeless or not stably housed.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible the PHA 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 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10-day period, the PHA 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 review process.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

The Violence against Women Act of 2013 (VAWA) prohibits the PHA from denying admission to an applicant who otherwise qualifies for the HCV program on the basis or as a direct result of the fact that the applicant is a victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and domestic violence certification form (HUD-5382) at the time the applicant is denied.



Decision Point: What will the PHA do to ensure that a victim of domestic violence, dating violence, or stalking is not denied admission on the basis of an unfavorable history for which she or he may not be culpable? (Model plan, p.3-~~333~~4)

Things to Consider

- VAWA 2013 requires that PHA to inform an applicant of the protection against denial that VAWA provides when the PHA sends the applicant a notice of denial.
- Applicants may be denied due to factors that on the surface appear unrelated to domestic violence, dating violence, sexual assault, or stalking, but are in fact a direct result of the fact that the applicant was a victim. Adverse factors which would ordinarily be grounds for denial under PHA policy such as poor credit history, poor rental history, a criminal record, or failure to pay rent, may be tied to the applicant's status as a victim. While the PHA is not required to independently identify whether a denial is a direct result of domestic violence, dating violence, sexual assault, or stalking, by informing all applicants of their rights under VAWA as part of the notice of denial, the applicant may be able to inform the PHA of their status as a victim. If so, the applicant must provide enough information for the PHA to make a determination regarding the adverse factor that is a direct result of their status as a victim. The PHA may request additional supporting documentation in accordance with PHA policies. The PHA must make an objectively reasonable determination, based on all circumstances, whether the adverse factors are a direct result of the applicant's status as a victim. If the denial is required by federal statute, such as the requirement to deny an applicant who is registered under a state lifetime sex offender registration requirement, the PHA must comply with the statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault, or stalking.
- The model policy considers adverse factors relating to an applicant's status as a victim and states the PHA will make an objectively reasonable determination.

Instructions for Preparing Chapter 3: Eligibility

- The model policy calls for an applicant claiming protection under VAWA to notify the PHA within 14 business days. This is the same amount of time that the model administrative plan allows for requesting an informal review (see section 16-III.B). If the PHA requires the applicant to provide documentation of domestic violence, dating violence, sexual assault, or stalking, the applicant would be entitled to additional time to provide the documentation (see section 16-IX.D of the model plan).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the PHA's policies.

While the PHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to the PHA to allow the PHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The PHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Documentation

Victim Documentation [24 CFR 5.2007]



Decision Point: Will the PHA require documentation of abuse from an otherwise qualified applicant who claims the protection against denial afforded by VAWA to victims of domestic violence, dating violence, or stalking? (Model plan, p. 3-~~34~~35)

Things to Consider

- If an applicant asserts that an unfavorable history is the result of domestic violence, dating violence, sexual assault, or stalking and that a member of the applicant's family was a victim of the abuse, the PHA likely will want some documentation to support the assertion.
- The final rule on VAWA makes clear that the same statutory documentation requirements that apply to program participants who claim to be victims of domestic violence, dating violence, sexual assault, or stalking also apply to program applicants [24 CFR 5.2007]. These requirements are discussed in section 16-IX.D of the plan.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

Perpetrator Documentation



Decision Point: If an applicant family contains both the victim and the perpetrator of domestic violence, dating violence, or stalking, will the PHA require additional documentation either removing the perpetrator from the application or demonstrating that he or she has successfully undergone, or is undergoing, rehabilitation? (Model plan, p. 3-3435)

Things to Consider

- In some cases both the perpetrator and the victim of domestic violence may apply for admission to the program together. VAWA protects victims from denial, but not perpetrators. If the perpetrator is removed from an applicant household and the victim is otherwise eligible, there will be no grounds for denial and the PHA will have satisfied the law by admitting the victim. However, there will be times when the victim may not wish to remove the perpetrator from the household because the perpetrator has successfully undergone, or is successfully undergoing, treatment or rehabilitation. In such cases the interests of the victim may be better served by admitting the entire family, including the perpetrator.
- The model plan policy is based on the premise that a PHA can be reasonably sure that the behavior that was the cause of concern will not occur again if the offending family member has successfully undergone rehabilitation, is currently participating in treatment, or is no longer in the household.
- There is a possibility that requiring a perpetrator to be removed from a household or to undergo treatment could precipitate more abuse. Before adopting a policy on this issue, the PHA may want to consult with legal counsel and/or domestic violence advocacy groups or service providers.

Instructions for Preparing Chapter 3: Eligibility



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 3: Eligibility

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 3: Eligibility

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

INTRODUCTION

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

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

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

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

PART I: THE APPLICATION PROCESS.

4-I.A. OVERVIEW

This section is a brief overview of the key issues discussed in Part I. **No policy decisions are required.**

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

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

HUD gives a PHA the latitude to determine how the PHA will take applications, within certain constraints. HUD does not mandate the format or content of the application, or the method for processing applications. However, the policies that govern the application process must be set out in the administrative plan.



Decision Point: Will the PHA use a one-step or a two-step application-taking process? (Model plan, p. 4-3)

Things to Consider

- Generally, when accepting applications, the PHA would use either a one-step or a two-step application process.
 - A one-step application process is typically most appropriate for PHAs that have short waiting lists (e.g., less than 60 days). In this type of situation, the family completes a full application, providing complete information when it applies for assistance. Collecting complete information only when the waiting list is short reduces the risk of having the information become out-of-date before the PHA is able to provide assistance.
 - A two-step application process is more appropriate and effective for PHAs that have longer waiting lists, or whose waiting lists fluctuate in length. The two-part process requires the family to provide only the information required to place the family correctly on the waiting list at initial application (step one). The PHA then requests complete information when the family is selected from the waiting list (step two).
- The model policy language is written to accommodate either a one-step or a two-step application process. The language gives the PHA the flexibility to use one process or the other, depending upon the family's expected wait time. If your PHA consistently uses either a one- or a two-step process and prefers not to include this flexibility, you will need to edit the model plan accordingly.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Applications can only be submitted to The Auburn Housing Authority online via Auburn Housing Authority' website.

Applications will be imported from The Auburn Housing Authority's website monthly or as an on need bases to accomplish leasing goals.

Imported applications will be sorted based on the bedroom size and processed based on the leasing need in score descending order.

The family must provide all of the information necessary to establish the family's eligibility, placement on the waitlist, and the level of assistance.

Families may apply at the Auburn Housing Authority's website and/or at the PHA-designated location during normal business hours. Families may also request – by telephone assistance with filling out online applications as a reasonable accommodation.

Applications must be complete when submitted online. If the application is not complete the application will not be accepted or processed



Option 2: Edit the model plan language below by filling in the blanks.

Depending upon the length of time that applicants may need to wait to receive assistance, the PHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within ___ days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least ___ days from the date of application. Under the two-step application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: How may applicants obtain and return applications? (Model plan, p. 4-3)

Things to Consider

- The model plan specifies how application forms can be obtained, and how they must be submitted to the PHA. The model policy allows the family to pick an application form up in person, or to ask the PHA to mail the application. It permits the PHA to accept applications delivered 1) in person, 2) by mail, 3) electronically, or 4) by fax.
- Depending on the technical systems and expertise available in your office, you may choose to either expand or limit these options. For example, a PHA might choose not to accept applications by fax if it has experienced difficulty obtaining legible documents this way. Another PHA with a sophisticated website might offer families the option of obtaining an application online and submitting it by email or another way electronically. If you wish to distribute or accept applications through other means, you must edit the model plan accordingly.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Applications can only be submitted to The Auburn Housing Authority online via Auburn Housing Authority' website.

Applications will be imported from The Auburn Housing Authority's website monthly or as an on need bases to accomplish leasing goals.

Imported applications will be sorted based on the bedroom size and processed based on the leasing need in score descending order.

The family must provide all of the information necessary to establish the family's eligibility, placement on the waitlist, and the level of assistance.

Families may apply at the Auburn Housing Authority's website and/or at the PHA-designated location during normal business hours. Families may also request – by telephone assistance with filling out online applications as a reasonable accommodation.

Applications must be complete when submitted online. If the application is not complete the application will not be accepted or processed



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). Policies related to reasonable accommodations for persons with disabilities, and people with limited English proficiency are contained in Chapter 2.

No policy decisions are required.

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility.

Ineligible for Placement on the Waiting List



Decision Point: How and when will the PHA notify a family that has been determined ineligible and will not be placed on the waiting list? (Model plan, p. 4-5)

Things to Consider

HUD requires the PHA to provide written notice to let the family know when the PHA has determined the family to be ineligible. The model plan states what the notice must include.

The model plan states that the PHA will notify a family of its ineligibility within 10 business days of receiving a complete application. This time frame (10 business days) is consistent with policies elsewhere in the plan.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination within 10 business 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 (see Chapter 16).



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

Eligible for Placement on the Waiting List



Decision Point: How will the PHA inform the family of their apparent eligibility and placement on the waiting list? (Model plan, p. 4-5)

Things to Consider

- No requirement exists to provide a written notice to families where the PHA has determined the family to be *eligible* and has placed the family on the waiting list. However, the HCV Guidebook, pg. 4-14, instructs PHAs to “inform” those applicants that are determined potentially eligible of their status. The model plan calls for informing families in writing to minimize phone calls and confusion for applicants. If your PHA does not inform applicants of apparent eligibility, substitute your own policy under Option 3 below.
- The model plan offers only what the Guidebook states – informing the family of their apparently eligible status and placing them on the waiting list. However, the PHA may wish to provide families that are determined to be eligible for assistance with some additional information not required by HUD regulations.
- The PHA may wish to specify the approximate wait-time for eligible families to be selected from the waiting list. This information can help give the family a realistic expectation about how long it will have to wait for assistance.
- If the PHA has preferences, they may wish to inform the family of the preferences for which it qualifies. Errors in assigning preferences can have a profound impact on a family’s wait for assistance. By providing this information, the PHA allows the family to verify that it has made an accurate assessment of the preferences for which the family qualifies. Generally, however, the PHA will not be verifying preference status at the time of initial application, and will simply be relying on the information provided by the family on the application.
- Although the model plan does not include a provision for informing apparently eligible families of their relative “place” on the waiting list, approximate wait time, preference status, etc., Option 2 provides alternative policy language. Your PHA may need to revise this language to reflect any additional actions your PHA takes in relation to communicating with apparently eligible applicant families.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Unless the family is determined ineligible at the time of application, the family will be placed on the waiting list.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list. The PHA will send written notification of the family eligible status within 10 business days from the date eligibility has been determined.

- Option 2: Delete the model plan language on apparently eligible applicants. Substitute the language shown below. Edit this language to include PHA-specific policies on communication with eligible applicants.*

The PHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete application.

For apparently eligible families that are placed on the waiting list, the notice will indicate the family's relative place on the waiting list and the approximate length of time that the family can expect to wait before being selected from the waiting list. If applicable, it also will indicate whether the family is eligible for any preferences that the PHA uses when selecting families from the waiting list.

- Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: What system will the PHA use for placing apparently eligible families on the waiting list? (Model plan, p. 4-5)

Things to Consider

- The model plan states that applicants will be placed on the waiting list according to preference, and date and time of application.
- PHAs may also use a lottery system to place families on the waiting list, instead of date and time. In this case, PHAs usually accept applications for a designated period of time. After applications are no longer being accepted, the PHA takes the applications that were submitted and by lottery assigns a number to each application. The applications are then placed on the waiting list in order of the numbers they were assigned (see Option 2).
- If you are using date and time of application without any local preferences, see Option 3. If you are using a lottery system without any local preferences, see Option 4.
- If a PHA chooses to replace the model plan by selecting another option, the policy in Section 4-III.C., Order of Selection, will need to be changed to match the policy here.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Delete model plan language and substitute language as shown below.

Applicants will be placed on the waiting list using a lottery system. Once each application has been randomly assigned a number, the applications will be placed on the waiting list in order of the assigned numbers and according to PHA preference(s).



Option 3: Delete model plan language and substitute language as shown below.

Applicants will be placed on the waiting list according to the date and time the complete application is received by the PHA.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

- Option 4: Delete model plan language and substitute language as shown below.*

Applicants will be placed on the waiting list using a lottery system. Once each application has been randomly assigned a number, the applications will be placed on the waiting list in order of the assigned numbers

- Option 5: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

This section provides a brief overview of the key issues discussed in Part II.

No policy decisions are required.

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



Decision Point: Will the PHA have separate HCV waiting lists or will the PHA have a single HCV waiting list? (Model plan, p. 4-7)

Things to Consider

- HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. The policy in the model plan calls for a single waiting list, and is appropriate for those PHAs that do not serve more than one county or municipality.
- PHAs that manage the HCV program in more than one county or municipality must decide whether to maintain a single HCV waiting list for the entire program, or separate HCV waiting list for each county/municipality (or combinations of counties/municipalities). The PHA must base this decision on factors such as the PHA’s organizational structure, resources, administrative procedures, and relationships between the various counties and municipalities.
- The model plan calls for a single HCV waiting list. If your PHA operates in more than one county or municipality and uses more than one waiting list, select Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed. Delete model plan language and substitute language as shown below.

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



Option 2: If your PHA operates in more than one county or municipality and you use more than one waiting list, delete model plan language and substitute language as shown below.

The PHA will maintain a separate waiting list for each of the following counties/municipalities within the PHA’s jurisdiction:

[List here counties for which you have established a separate waiting list]



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: Will the HCV waiting list be merged with other waiting lists? (Model plan, p. 4-7)

Things to Consider

- The PHA can either keep the HCV waiting list separate and independent, or merge it with other waiting lists. Keeping the lists separate enables the PHA to quickly and easily identify only those applicants that are interested in and eligible for a particular program.
- However, the PHA must establish procedures to ensure that no family is inadvertently omitted from a waiting list for a program the family is qualified for and interested in.
- Merging the waiting lists eliminates the administrative challenge of placing families on multiple lists. However, it could complicate the selection process by requiring the PHA to sort through families who are not interested in HCV assistance, in order to find the next family who is interested, when HCV assistance becomes available.
- The model plan language calls for a separate, non-merged HCV waiting list. Your PHA may need to alter this language to fit your particular circumstances.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Delete model plan language and substitute language as shown below.

The HCV waiting list is merged with the following program(s):

[List the programs with which your HCV waiting list is merged]



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

Closing the Waiting List



Decision Point: How will the PHA determine when to close its waiting list? (Model plan, p. 4-8)

Things to Consider

- HUD permits the PHA to close the waiting list if it has an adequate pool of families to use its available funding, but does not define what constitutes an “adequate pool.” The HCV Guidebook suggests that application-taking should stop when the anticipated wait reaches between 12 and 24 months. There is no HUD requirement for a public notice to close the waiting list. It may be added at PHA option (see Option 2).
- PHAs may elect to continue accepting applications from certain categories of families that meet particular preferences or funding criteria, despite the fact that they are closing the waiting list to other families. Generally, the PHA would exercise this option when the number of applicants on the waiting list that meet the specific preference or funding criteria, is not sufficient to use the HCV funding that will become available during the period the PHA expects the waiting list to be closed.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will close the waiting list when the PHA determines there are sufficient applicants on the waiting list. Where the PHA has particular preferences or funding criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others



Option 2: Edit the model plan language by filling in the blanks below.

The PHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches ___ months for the most current applicants. The PHA may choose to continue to accept applications from families meeting certain criteria while closing the waiting list to others.

The PHA will announce by public notice the closing of the waiting list. If the list remains open to certain categories of families, this information will be contained in the notice. The notice will be published at least ___ days prior to the PHA closing the list.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

Reopening the Waiting List



Decision Point: How will the PHA announce that the waiting list will be reopened?
(Model plan, p. 4-8)

Things to Consider

- HUD requires that the PHA give public notice before reopening the waiting list. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.
- The plan should specify how the PHA will notify the public when the waiting list is to be reopened by listing the media outlets the PHA will always use. Including this list in the plan does not prevent the PHA from giving notice in additional media outlets

CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is.



Option 1: Use the model plan language shown below. Insert the list of media outlets as indicated.

The PHA will announce the reopening of the waiting list at least 10 business 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 PHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

Auburn Opelika News

Touch 9 10 am



Option 2: Edit the model plan language by filling in the blanks below.

The PHA will announce the reopening of the waiting list at least ___ 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 PHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

[List here newspapers/other media where notices will be published]



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

HUD requires the PHA to make certain types of outreach efforts, simply to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted. However, HUD leaves open the possibility that the PHA may elect to undertake additional outreach activities.



Decision Point: How will the PHA determine what outreach is appropriate and what specific strategies should be undertaken? (Model plan, p. 4-9)

Things to Consider

- If the PHA has a standard list of other media outlets that it uses, those may be included in a local policy on outreach. However, in general, additional outreach efforts are usually very purpose-specific. In other words, the PHA is undertaking additional outreach in order to meet specific objectives of reaching underserved populations, reaching extremely low income families, furthering fair housing objectives, among others. For this reason, PHAs are better served to consider the situation and assess the appropriateness of various media outlets on an as-needed basis.
- The policy in the model plan states that the PHA will monitor the characteristics of the HCV-assisted family population, and will undertake outreach as needed and in order to fit the specific situation. It does not list specific outreach strategies, since such strategies must be adapted on an ongoing basis, based on the market area analyses and information about the success or failure of past outreach efforts.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

The family should be required to notify the PHA when there are changes in the information provided on the application in order to allow the PHA to select families from the waiting list accurately and efficiently.



Decision Point: What types of changes must the family report to the PHA? (Model plan, p. 4-10)

Things to Consider

- The model plan specifies that the family must report changes in contact information including current residence, mailing address, and phone number. This policy does not prevent a family from reporting other changes.
- Your PHA may wish to adopt additional reporting requirements, such as changes in family size or composition, changes in preferences, and changes in income or income source. In deciding whether to require families to report other changes, the PHA would need to balance the burden, both for the family and the PHA, of reporting and processing multiple changes while on the waiting list against the value and usefulness of that information for selection purposes.
- Keep in mind, an applicant family's information will generally be updated on a regular basis when the PHA purges the waiting list. It will also be updated at the time the family is selected from the waiting list.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

While the family is on the waiting list, the family must immediately inform the PHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

An out-of-date waiting list can hamper the PHA's efforts to process applicants efficiently when funding becomes available. To keep the waiting list current, the PHA is permitted to contact families on the waiting list periodically to reconfirm their interest, and to "purge" the list of families that are no longer interested, no longer eligible, or no longer reachable.

Purging the Waiting List



Decision Point: How often will the PHA purge the waiting list? (Model plan, p. 4-10)

Things to Consider

- HUD does not specify how often the waiting list should be updated.
- Purging should occur often enough to ensure that the waiting list is as current as possible, so that when the PHA contacts families at the top of the waiting list with invitations to attend an interview, the PHA is able to accurately predict the number of responses it will receive. However, purging the list too frequently results in unnecessary effort for both the PHA and the families.
- The appropriate frequency for updating the waiting list will depend in part on the size of the waiting list, and in part on the nature of the community. [As local conditions may vary, the model plan states that the list will be updated annually, but as needed. The PHA may wish to instead set a regular period, such as every six months, or annually. local conditions may require more or less frequent updates.](#)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The waiting list will be updated ~~annually~~ [as needed](#) to ensure that all applicants and applicant information is current and timely.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: How will families be notified of the update request and what will the request contain? (Model plan, p. 4-10)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

To update the waiting list, the PHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Decision Point: How much time does the family have to respond to the update request and what will happen if the family doesn't respond within the specified time frame? (Model plan, p. 4-10)

Things to Consider

- HUD leaves it to the PHA to determine the amount of time families will be given to respond to an update request, and the number of contact attempts that will be made.
- The model plan allows 15 business days for an applicant family to respond to the purge letter. This response time is longer than the standard response time of 10 business days used throughout much of this plan. An increased response time is advisable in this circumstance due to the seriousness of the consequences if the family's response is not received in a timely manner.
- Although a shorter time frame is not recommended, PHAs may want to allow more than 15 business days to respond (e.g. 30 calendar days). If you choose to do this, simply edit the number of days in the model plan.
- The model plan states that responses may be delivered in person, by mail, by email, or fax. If your PHA accepts other methods, the model plan will need to be edited to reflect this.
- The model plan states that families will only be contacted once for each purge of the waiting list. If a family doesn't respond to the purge letter, the family will be removed from the waiting list without further notice.
- If a PHA wants to send more than one update notice prior to removing the family from the waiting list, the model plan will need to be edited accordingly (see Option 2).

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than 15 business days from the date of the PHA letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.



Option 2: Delete model plan language and substitute language as shown below.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than 15 business days from the date of the PHA letter.

If the family fails to respond within 15 business days, the family will be sent a second notice giving them 10 business days to respond in writing. If they fail to respond to the second notice within the required time frame, the family will be removed from the waiting list without further notice.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: What will the PHA do if the update notice is returned by the post office? (Model plan, p. 4-10)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: Under what circumstances will the PHA allow families, who do not respond to the update request within the required time frame, to be reinstated to the waiting list? (Model plan, p. 4-10)

Things to Consider

- The model plan allows the PHA to reinstate someone to the waiting list but limits the reinstatement to cases of PHA error and circumstances beyond the family's control. To ensure consistency, we recommend that this authority be limited to one position.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error, or to circumstances beyond the family's control.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Removal from the Waiting List



Decision Point: What will the PHA do when it receives information that a family is ineligible for assistance after the family has already been placed on the waiting list? (Model plan, p. 4-11)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If at any time an applicant family is on the waiting list, the PHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the PHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the PHA's decision (see Chapter 16) [24 CFR 982.201(f)].



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

This section identifies the key issues discussed in Part III. **No policy decisions are required.**

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family’s position on the waiting list. **No policy decisions are required.**

Targeted Funding [24 CFR 982.204(e)]



Decision Point: What types of targeted funding does the PHA have available?
(Model plan, p. 4-13)

Things to Consider

- Your PHA may have such targeted funding (e.g. welfare-to-work, family unification, etc.). When the PHA receives targeted funding, the availability of such funding may affect the order in which families are admitted to the program. This information should be made available to families by including it in the plan.
- On the other hand, your PHA may not have such targeted funding. If so, you should specify explicitly that the PHA does not have such funding. The model plan assumes that targeted funding is available.

CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is.



Option 1: Use the model plan language shown below. Insert the list of active targeted funding as indicated.

The PHA administers the following types of targeted funding:

VASH

Tenant protection vouchers for foster youth to independence initiative (FYI)



Option 2: Delete the model plan language and insert the text below.

The PHA does not currently administer any type of targeted funding.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. **No policy decisions are required.**

4-III.C. SELECTION METHOD

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

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

The PHA is permitted, but not required, to establish local preferences.



Decision Point: What local selection preferences will the PHA use? (Model plan, p. 4-14)

Things to Consider

- The model plan includes a local preference for families who have been terminated by the PHA due to insufficient funding:
 - PIH Notice 2005-9, Public Housing Agency (PHA) Flexibility to Manage the Housing Choice Voucher Program in 2005, states that PHAs should include in their administrative plan termination policies due to insufficient funding, as well as policies related to the resumption of assistance for the impacted families.
 - Except for special admissions (for which HUD provides specific funding), participants must be selected from the PHA waiting list. Therefore, families that are terminated due to insufficient funding must reapply for assistance and be selected from the waiting list. If a PHA wishes to resume assistance to these families prior to assisting others on the waiting list, a preference must be given as in the model policy.
 - If a PHA does not want to resume assistance of families terminated due to insufficient funding prior to providing assistance to other families on the waiting list, select Option 2 below.
 - It is important to note that even though families terminated due to insufficient funding may be given a preference; they will still be subject to the PHA's eligibility requirements.

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- HUD regulations specifically authorize the PHA to establish certain types of preferences.
 - A “residency” preference for a family that resides in a specified geographic area, or includes a family member who works, or has been notified that they are hired to work, in that geographic area. The preference cannot have the effect of disproportionately delaying or denying assistance to members of protected classes. A residency requirement is prohibited.
 - A preference for “working” families, where the head, spouse or sole member is employed. However, an applicant where the head and spouse or sole member is a person age 62 or older, or is a person with disabilities, must also be given the benefit of this preference.
 - A preference for a family that includes a family member who is a person with disabilities. However there cannot be a preference for a specific disability.
 - A preference for a family that includes a family member who is a victim of domestic violence, dating violence, sexual assault, or stalking.
 - A preference for a family whose sole family member is elderly, displaced, homeless, or a person with disabilities, over other single-person families.
- The model policy also chooses to adopt a preference for a family that includes a family member who is a victim of domestic violence, dating violence, sexual assault, or stalking, who has either been referred by a partnering service agency or consortia or is seeking an emergency transfer from the PHA’s public housing program or other covered housing program operated by the PHA under VAWA.
 - Although VAWA 2013 does not require such a preference, the law as well as HUD regulations and notices encourage PHAs to affirmatively address the needs of victims of domestic violence, dating violence, sexual assault, and stalking. Adopting a preference for such victims is one way to address these needs.
 - While the PHA’s system of local preferences must be based on local housing needs and priorities, HUD recommends that a PHA’s local housing needs assessment specifically include people experiencing domestic violence, dating violence, sexual assault, or stalking.
 - The model policy addresses two categories of victims of domestic violence, dating violence, sexual assault, or stalking. First, by addressing the needs of participants seeking an emergency transfer from the PHA’s public housing or other covered housing programs under VAWA, the policy allows victims who are assisted by the PHA to more quickly access an available unit without being placed on the bottom of the HCV waiting list.

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- Further, the model policy also establishes a preference for individuals who are referred by a partnering service organization or consortia or organization. Notice PIH 2017-08 makes clear that in selecting partnering organizations, the PHA may not limit the source referrals to an agency, organization, or consortia that denies services to members of any federally protected class such as an agency that limits referrals only to female victims. Since these agencies will be specific to the PHA's area, the model policy must be edited to include the names of service agencies with which the PHA is partnering.
- The PHA is free to establish other preferences not addressed in the regulation, as long as they are based on local housing needs and priorities. The PHA is also free to limit the number of families that qualify for any given preference.
- If your PHA chooses to establish additional preferences, you must add them to the model plan. Examples of additional local preferences a PHA may wish to adopt are:
 - Veterans or surviving spouses of veterans
 - Graduates of transitional housing programs
 - Families who have been involuntarily displaced
 - Families who are homeless or living in substandard housing
 - Families paying more than 50% of their income for rent and utilities
- Families who have been involuntarily displaced:
 - If a PHA offers a preference for families who have been involuntarily displaced, this term must be defined by the PHA. The preference could be broad and include displacement due to a disaster (e.g. fire, flood, earthquake), government action (e.g. code enforcement, public improvement), action by a housing owner that is beyond an applicant's ability to control (e.g. conversion of a unit to non-residential use, owner wants the property for personal use), or it could be more narrowly defined.
 - For example, such a preference could be restricted to families who have been displaced due to a natural disaster or other national emergency. It could be limited to families involuntarily displaced in Federally-declared disaster areas, or to those involuntarily displaced within the PHA's jurisdiction, locality, or state.
 - A PHA could adopt a preference for victims of a specific disaster (e.g. Hurricane Katrina) at the time of the disaster, and then remove the preference when it is no longer needed. It is important to note that this option is only practical if this type of change does not qualify as a significant amendment to the PHA plan, and the change can be made quickly enough to have the desired impact.
- Establishing preferences allows the PHA to target assistance to the populations most in need of assistance in the community. However, selection preferences make the waiting list management process more complex, make the process harder for families to understand, and may prevent families without preferences from ever being selected from the waiting list.

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- If a PHA adopts multiple preferences, the policy should also specify the relationship between preferences. For example, do some preferences carry more weight than others? Should all preferences be treated equally regardless of preference? Is a family that qualifies for more than one preference assisted before a family that qualifies for only one of the preferences (compounding preferences)?
- PHAs that adopt additional preferences must be sure that all preferences are clearly defined, and that the system (or hierarchy) of selection preferences is also clear. If adopted, these policies should appear in this section of the plan. Policies related to the verification of preferences must also be adopted and should be added to Section 7-II.H. of this plan.
- For options on local preference policies, systems of selection preferences, and preference verification policies, please refer to Exhibit 4-1 at the end of this Chapter.

CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is.

Option 1: Use the model plan language shown below. Insert the names of agencies with which the PHA will partner.

The PHA will use the following local preferences:

The PHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. (15 points)

The PHA will offer a residency preference to families who live, work or have been hired to work within the PHA's jurisdiction. (10 points)

The PHA will offer a working family preference. (4 points)

A working family is a family in which the head, spouse, cohead, or sole member is employed at least 30 hours per week. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)].

The PHA will offer a preference to families who qualify for protections under VAWA. The PHA will extend this preference to five (5) families per fiscal year. (30 points)

The family must be referred to the PHA by a credible agency that assists domestic violence victims.

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

The PHA will first assist families that have been terminated from the HCV program due to insufficient funding and then assist families that qualify for the VAWA preference.

The PHA will verify this status as reflected under VAWA verification requirements in Chapter 16.

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The PHA will offer a preference to families who are homeless. (30 points)

The family must be referred to the PHA by a credible agency that assist homeless person (s).

- Option 2: Delete the model plan language and insert the language below.
No local preferences have been established.*
- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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



Decision Point: How will the PHA ensure that it meets the extremely low-income (ELI) targeting requirements? (Model plan, p. 4-14)

Things to Consider

- HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the PHA’s fiscal year [24 CFR 982.201(b)(2)]. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher.
- Low-income families that have been “continuously assisted” under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families that have been displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].
- In order to ensure that the PHA will meet its income-targeting requirement by the end of the fiscal year, the PHA will need to regularly monitor the income levels of its waiting list applicants and new admissions to the program. If the PHA finds that it is at risk of failing to meet this requirement, the PHA will need to select ELI families over non-ELI families.
- The model plan states that a PHA will select ELI families over other eligible families on an as-needed basis, in order to meet the income targeting requirement. This policy allows the PHA to ensure compliance with the targeting requirement, without adopting ELI as a preference category.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Order of Selection



Decision Point: How will families be selected from the waiting list? (Model plan, p. 4-15)

Things to Consider

- While both the first-come, first-served and random choice methods are acceptable, most PHAs provide assistance on a first-come first-served basis. Therefore, this is the approach taken in the model plan.
- PHAs are required to use targeted funding to assist only those families that qualify. Therefore, the model language makes it clear that when selecting families for admission using targeted funding, families that do not qualify may be skipped. Among families that do qualify, the PHA will select based on date/time of application. The plan also makes clear that documentation is required to note when a family is not qualified for or is not interested in the targeted funding so that those families do not have to be asked numerous times when targeted funding is available and can be skipped when targeted selections are made.
- Options 1 and 2 are for PHAs that have adopted one or more local preferences. For PHAs with no local preferences the model plan language must be edited or replaced. See Options 3 and 4, or adopt your own policy language.
- The policy in this section must be consistent with the policy in Section 4-I.D.



Option 1: Use the model plan language shown below. No changes to the model plan are needed (Only for PHAs with local preferences and selecting using date and time).

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the PHA. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

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- Option 2: Delete the model plan language and insert the text below (Only for PHAs with local preferences and selecting using a lottery system).*

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected in numerical order based on the numbers that were assigned to each application, by lottery, at the time the applications were placed on the waiting list. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

- Option 3: Delete the model plan language and insert the text below (Only for PHAs with no local preferences and selecting by date and time).*

Families will be selected from the waiting list on a first-come, first-served basis according to the date and time their complete application is received by the PHA.

Families that qualify for a specified category of program funding (targeted funding) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding. However, within any targeted funding category, applicants will be selected on a first-come, first-served basis according to the date and time their complete application is received. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

- Option 4: Delete the model plan language and insert the text below (Only for PHAs with no local preferences and selecting using a lottery system).*

Families will be selected from the waiting list in numerical order based on the numbers that were assigned to each application, by lottery, at the time the applications were placed on the waiting list.

Families that qualify for a specified category of program funding (targeted funding) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding. However, within any targeted funding category, applicants will be selected in numerical order based on the numbers that were assigned to each application, by lottery, at the time the applications were placed on the waiting list.

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- Option 5: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

4-III.D. NOTIFICATION OF SELECTION

Once the family is selected from the waiting list, the PHA must notify the family and provide clear information about what the family must do to continue the application process [24 CFR 982.554(a)]. The model plan lists the information the PHA must provide to the family.

- Decision Point: How will the PHA notify the family that it has been selected from the waiting list, and clarify the next steps the family must take? (Model plan, p. 4-16)**

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

All documents that must be provided at the interview, including information about what constitutes acceptable documentation

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

- Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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4-III.E. THE APPLICATION INTERVIEW

HUD recommends, but does not require, the PHA to hold an interview with families selected from the waiting list. The interview allows the PHA to collect the information necessary to make a final eligibility determination and calculate the amount of subsidy the family will receive. The PHA must develop its own policies regarding whether to hold such interviews, and if so, the requirements for attending them.



Decision Point: Will the PHA require an in-person interview? (Model plan, p. 4-16)

Things to Consider

- The model plan calls for in-person interviews as recommended by HUD. If you choose not to hold in-person interviews, you should add your own policy discussion on how you will ensure that the PHA obtains complete information and all required signatures and documentation from the family.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: Who must attend the in-person interview? (Model plan, p. 4-16)

Things to Consider

- The policy should specify who must attend the interview. When there is no spouse or cohead, the head of household must attend the interview. If there is a spouse or cohead, the model plan encourages, but does not require, the head of household and the spouse/cohead to attend together, and permits the spouse/cohead to attend in lieu of the head of household.
- An alternative approach would be to require any spouse/cohead to attend the interview with the head of household, and make exceptions when this poses problems for the family. Encouraging but not requiring joint attendance relieves staff of the responsibility for determining when an exception should be made. In any case, forms that require signatures from adult family members who do not attend the interview must be returned to the PHA after the interview.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

All adult household members are required to attend the interview together. However, if this presents a hardship, this requirement may be waived at the PHA's sole discretion. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.



Option 2: Delete model plan language and substitute language as shown below.

The head of household is required to attend the interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.



Option 3: Delete model plan language and substitute language as shown below.

All adult family members are required to attend the interview.



Option 4: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: What proof of legal identity must be provided at the in-person interview? (Model plan, p. 4-16)

Things to Consider

- The PHA must ensure that that the family selected and scheduled for the interview, and family actually attending the interview, are one and the same. To address this issue, the model plan requires proof of legal identity for a family representative – head, spouse, or cohead – at the interview. If your PHA has encountered significant problems in this area, you may wish to consider more stringent requirements for proof of identity for all family members at the time of interview.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The head of household or spouse/cohead must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation at the time of the interview, he or she will be required to provide it within 10 calendar days.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: How long will the PHA allow an applicant family who is otherwise eligible to retain its place on the waiting list pending disclosure and documentation of social security numbers? (Model Plan, p. 4-17)

Things to Consider

- Notice PIH 2018-24, issued February 15, 2012, reiterates that the PHA must deny the eligibility of an applicant family unless each member of the household discloses an SSN and provides documentation of each SSN. However, the notice also states that if the family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA, which should be described in the PHA's policies.
- Because the maximum amount of time that would be reasonable for a PHA to allow will vary, the model policy does not include a specified timeframe. The PHA's application process and the family's expected wait time, among other factors such as the PHA's general practices, procedures, funding, and other time limits, all need to be considered in determining what a reasonable amount of time would be.
- Regardless of the maximum time a PHA allows, the notice states that if all household members have not disclosed their SSNs at the time a unit becomes available, the PHA must offer the available unit to the next eligible applicant family on the waiting list. The model policy contains language adapted to the voucher program that follows this requirement.

CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is.



Option 1: Use the model plan language shown below. Insert the specified timeframe as needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: How long does the family have to provide any missing information? (Model plan, p. 4-17)

Things to Consider

- Although the PHA informs the family what documents must be brought to the interview and gathers all of the information it can from the family at the interview, additional information or documentation may be required. In this case, the PHA must clearly inform the family about what additional items need to be provided and by when. Providing a list of missing documents in writing will help facilitate the process.
- The model plan uses the 10 business day time frame used elsewhere in the plan as the time frame for returning the required materials. However, this is an area where some flexibility may be required, since some documents may be difficult to obtain, and families may misunderstand exactly what documents were required. The model plan provides a clear deadline, but gives the PHA the flexibility to grant extensions to families that require them.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, **and must as well as completing** required forms, **providing** required signatures, and **submitting** required documentation. If any materials are missing, the PHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: What kind of assistance can the family have at the interview? (Model plan, p. 4-17)

Things to Consider

- Some families may wish to bring an advocate, interpreter, or other assistant with them to the interview. The model plan permits such a person to attend but requires the family and the PHA to execute a certification attesting to the role and assistance of the third-party in the application interview process.
- Depending on local conditions and the PHA's resources, interviews may be conducted only in English, or the PHA may provide interviews in other languages, either routinely, or upon special request. A PHA with bi-lingual staff might establish a policy offering interviews in another language. The model plan limits the PHA's commitment to providing interviews in English, with services provided for limited English proficiency (LEP) applicants, under the PHA's LEP plan.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection



Decision Point: What happens if the family cannot attend a scheduled interview? (Model plan, p. 4-17)

Things to Consider

- The PHA should have a policy for rescheduling the interview if a family is unable to attend, as well as policies concerning how to handle families who do not attend scheduled interviews. The model plan requires the PHA to deny assistance if the family fails to attend two scheduled interviews without PHA approval. Denial of assistance requires that the family be offered an informal review, which would give the PHA the opportunity to offer an additional interview date to a family that encountered exceptional circumstances.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance (by noon of the business day prior to the scheduled interview) to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

4-III.F. COMPLETING THE APPLICATION PROCESS



Decision Point: How will the PHA treat a family determined to be ineligible or a family that fails to qualify for targeted funding or a selection preference? (Model plan, p. 4-18)

Things to Consider

- If the PHA determines that a family is ineligible, the family must be notified and given the opportunity for an informal review (see Chapter 16).
- If the PHA determines that a family is eligible, but was selected from the waiting list based on criteria for which it does not qualify, the PHA must inform the family of this determination and return the family to the waiting list. A PHA may offer an applicant family the right to an informal review when they are placed back on the waiting list, but since the PHA is not denying assistance, an informal review is not required.
- If a PHA has local preferences and a family is selected from the waiting list based on a preference(s) that the PHA is unable to verify, the family must be placed back on the waiting list. However, in this case, the family will not be returned to their original position. Instead, they will be placed back on the waiting list according to the date and time or lottery number of their application, but in the preference or non-preference category for which the family now qualifies (see Option 2 below).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

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

If the PHA determines that the family is eligible to receive assistance, the PHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

- Option 2: Delete model plan language and substitute language as shown below (Only for PHA with local preferences).*

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, local preference, extremely low-income), the family will be returned to the waiting list, taking into account any change in the family's preference status. The PHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the PHA determines that the family is eligible to receive assistance, the PHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

- Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
(2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
 Yes. Edits only. Edit and insert PHA language as appropriate.
 Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
 Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

EXHIBIT 4-1: LOCAL PREFERENCES – POLICY OPTIONS

- **Residency Preference**: For families who live, work, or have been hired to work **[or who are attending school]** in the jurisdiction.
- **Veteran’s Preference**: This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans.
- **Disability Preference**: This preference is extended to disabled persons or families with a disabled member as defined in this plan.
- **Working Preference**: Families where the head, spouse/cohead, or sole member is employed at least **[number]** hours per week **[or who are active participants in accredited educational and training programs designed to prepare the individual for the job market]**. This preference is automatically extended to an applicant family if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.
- **Educational/Training Participants**: This preference is available for families **[whose head and/or spouse/cohead][with adult member(s) who]** are graduates of or active participants in educational and training programs designed to prepare the individual for the job market.
- **Certain Moderate Rehabilitation Families**: Families who are currently residing in a mod rehab unit which is overcrowded or under-occupied and there is no applicable unit available in the moderate rehabilitation development **[or other moderate rehabilitation developments within the PHA’s jurisdiction]**.
- **Graduates of Transitional Housing Programs**: Families who have graduated from transitional housing programs for **[homeless/substance abusers/victims of domestic abuse]**.
- **Victims of Domestic Violence**: The PHA will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, or stalking who has either been referred by a partnering service agency or consortia or is seeking an emergency transfer under VAWA from the PHA’s public housing or other covered housing program operated by the PHA.

The PHA will work with the following partnering service agencies:

[Insert name(s) of agencies]

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

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

- **Involuntary Displacement**: Involuntarily displaced applicants are applicants who have been involuntarily displaced and are not living in standard, permanent replacement housing, or will be involuntarily displaced within no more than six months from the date of **[preference status certification by the family/verification by the PHA]**.

Families are considered involuntarily displaced if they are required to vacate housing as a result of:

1. A disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable.
2. Federal, state or local government action related to code enforcement, public improvement or development.
3. Action by a housing owner which is beyond an applicant's ability to control, and which occurs despite the applicant's having met all previous conditions of occupancy, and is other than a rent increase.

If the owner is an immediate family relative and there has been no previous rental agreement and the applicant has been part of the owner's family immediately prior to application, the applicant will not be considered involuntarily displaced.

For purposes of this definitional element, reasons for an applicant having to vacate a housing unit include, but are not limited to:

Conversion of an applicant's housing unit to non-rental or non-residential use;

Closure of an applicant's housing unit for rehabilitation or non-residential use;

Notice to an applicant that s/he must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy;

Sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred; or

Any other legally authorized act that results, or will result, in the withdrawal by the owner of the unit or structure from the rental market.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

4. To avoid reprisals because the family provided information on criminal activities to a law enforcement agency and, after a threat assessment, the law enforcement agency recommends rehousing the family to avoid or reduce risk of violence against the family.

The family must be part of a Witness Protection Program, or the HUD Office or law enforcement agency must have informed the PHA that the family is part of a similar program.

The PHA will take precautions to ensure that the new location of the family is concealed in cases of witness protection.

5. By hate crimes if a member of the family has been the victim of one or more hate crimes, and the applicant has vacated the unit because of the crime or the fear of such a crime has destroyed the applicant's peaceful enjoyment of the unit.

A hate crime is actual or threatened physical violence or intimidation that is directed against a person or his property and is based on the person's race, color, religion, sex, national origin, disability or familial status **[including sexual orientation]** and occurred within the last **[number of]** days or is of a continuing nature.

6. Displacement by non-suitability of the unit when a member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit and the owner is not legally obligated to make changes to the unit.

Critical elements are: **[entry and egress of the unit and building/a sleeping area/a full bathroom/a kitchen if the person with a disability must do their own food preparation/other]**.

7. Due to HUD disposition of a multifamily project under Section 203 of the Housing and Community Development Amendments of 1978.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

In order to receive the displacement preference, applicants who have been displaced must not be living in “standard, permanent replacement housing.”

Standard replacement housing is defined as housing that is decent, safe and sanitary **[according to Housing Quality Standards/local housing code/other]**, that is adequate for the family size according to **[Housing Quality Standards/local/state/BOCA code]**, and that the family is occupying pursuant to a written or oral lease or occupancy agreement.

Standard replacement housing does not include transient facilities, hotels, motels, temporary shelters, and (in the case of Victims of Domestic Violence) housing occupied by the individual who engages in such violence.

It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress. Shared housing with family or friends **[is/is not]** considered temporary and **[is/is not]** considered standard replacement housing.

- **Substandard Housing**: Applicants who live in substandard housing are families whose dwelling meets one or more of the following criteria **[provided that the family did not cause the condition]**:

Is dilapidated, **[as cited by officials of local code enforcement office]** and does not provide safe, adequate shelter; has one or more critical defects or a combination of defects requiring considerable repair; endangers the health, safety, and well-being of family.

Does not have operable indoor plumbing.

Does not have usable flush toilet in the unit for the exclusive use of the family.

Does not have usable bathtub or shower in unit for exclusive family use.

Does not have adequate, safe electrical service.

Does not have an adequate, safe source of heat.

Should, but does not, have a kitchen. (Single Room Occupancy (SRO) Housing is not substandard solely because it does not contain sanitary and/or food preparation facilities in the unit).

Has been declared unfit for habitation by a government agency.

Is overcrowded according to **[HQS/local/state/BOCA code]**.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

Persons who reside as part of a family unit shall not be considered a separate family unit for substandard housing definition preference purposes.

Applicants living in public housing **[or publicly assisted housing]** shall not be denied this preference if unit meets the criteria for the substandard preference.

An applicant who is a "homeless family" is considered to be living in substandard housing. "Homeless Families":

Lack a fixed, regular and adequate nighttime residence; and

Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations (including welfare hotels, congregate shelters and transitional housing), or an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not ordinarily used as a sleeping accommodation for human beings.

Homeless families may maintain their place on the waiting list while completing a transitional housing program.

Families who are residing with friends or relatives on a temporary basis **[will/will not]** be included in the homeless definition.

Persons who reside as part of a family unit shall not be considered a separate household.

- **Rent Burden**: This preference applies to families paying more than 50% of their income for rent and utilities for at least 90 days **[commencing before they were selected from the Waiting List/and continuing through the verification of preference]**.

For purposes of this preference, "family income" is gross monthly income as defined in the regulations.

"Rent" is defined as the actual amount due under a lease or occupancy agreement calculated on a monthly basis without regard to the amount actually paid, plus the monthly amount of tenant-supplied utilities which can be either:

The PHA's reasonable estimate of the cost of such utilities, using the Section 8 Utility Allowance Schedule; or

The average monthly payments the family actually made for these utilities in the most recent 12-month period, or if information is not obtainable for the entire period, the average of at least the past **[number of/any representative sampling of]** months.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

An applicant family may choose which method to use to calculate utilities expense. Any amounts paid to or on behalf of a family under any energy assistance program must be subtracted from the total rent burden if included in family income. The applicant must show that they actually paid the utility bills, regardless of whose name the service is under.

To qualify for the rent burden preference, the applicant must pay rent directly to the landlord or agent.

If the applicant pays their share of rent to a cohabitant and is not named on the lease, the PHA will require both verification from the landlord that the applicant resides in the unit, and verification from the cohabitant of the amount of rent paid by the applicant.

If the applicant is subletting, the lessor must have the legal right to sublet.

If an applicant owns a mobile home, but rents the space upon which it is located, then "rent" must include the monthly payment made to amortize the purchase price of the home.

Members of a cooperative are "renters" for the purposes of qualifying for the preference. In this case, "rent" would mean the charges under the occupancy agreement.

- **Single Applicants:** *Select only one of the following:*

Single applicants will be treated as any other family on the waiting list.

Single applicants who are elderly, disabled, or displaced will be given a selection priority over all "Other Single" applicants regardless of preference status. "Other Singles" denotes a one-person household in which the individual member is not elderly, disabled, or displaced by government action. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they can not be selected for assistance before any one-person elderly, disabled or displaced family regardless of local preferences.

All families with children and families who include an elderly person or a person with a disability (see 24 CFR 100.80) shall be given a selection priority over all other applicants.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

SYSTEMS OF PREFERENCES – POLICY OPTIONS

Select only one of the following:

1. All local preferences will be treated equally.
2. Local preferences will be numerically ranked, with number 1 being the highest preference, in the following order: **[list]**
3. Local preferences will be aggregated using the following system: (select only one system of aggregating):

Two preferences outweigh one, three outweigh two, etc.

Each preference will be equal to **[number]** points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

[list preferences offered and indicate the number of points allotted each preference]

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list.

[list preferences offered and indicate the number of points allotted each preference]

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

VERIFICATION OF WAITING LIST PREFERENCES – POLICY OPTIONS

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

In order to verify that an applicant is a resident, the PHA will require a minimum of [**specify number**] of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from household with whom the family is residing.

For families who have been hired to work in the jurisdiction of the PHA, a statement from the employer will be required.

Veterans Preference: This preference is available to current members of the U.S. Armed Forces, veterans, or surviving spouses of veterans.

The PHA will require U.S. government documents which indicate that the applicant qualifies under the above definition.

Disability Preference: This preference is extended to disabled persons or families with a disabled member as defined in this plan.

The PHA will require appropriate documentation from a knowledgeable professional. The PHA will not inquire as to the nature or extent of the disability.

An award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

Working Preference: This preference is available for families with at least one member who is employed or to families whose head and spouse, or sole member is elderly or disabled.

The PHA will require a statement from the employer, or verification of the age or disability status of the head and spouse, or sole member.

Educational/Training Participants: This preference is available for families [**whose head and/or spouse/cohead**][**with adult member(s) who**] are graduates of or participants in educational or training programs designed to prepare the individual for the job market.

The PHA will require a statement from the agency or institution providing the education or training.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

Victims of Domestic Violence: The PHA will offer a local preference to families that include victims of domestic violence.

The PHA will require written verification from the police, a social service agency, the court, a clergyperson, a physician, and/or a public or private facility giving shelter and/or counseling to victims. The documentation must verify that the family has been displaced as a result of fleeing violence in the home or they are currently living in a situation where they are being subjected to or victimized by violence in the home, and identify when the actual or threatened physical violence against the applicant last occurred.

The family must certify that the abuser will not return to the household without the advance written approval of the PHA.

- **Involuntary Displacement:** Families who claim they are being or have been displaced due to either a disaster or government action: written verification by the displacing unit or agency of government, [or by a service agency such as the Red Cross].

Families who claim they are being or have been displaced because of actions taken by the owner/agent of the unit the family is renting: Notification by owner to family of the action/ written verification by the owner or agent/documents such as sales agreements, foreclosure notices or building permits.

Families who claim they have been or are about to be displaced to avoid reprisals for providing information to assist police in a criminal investigation:

Certification of threat assessment by a law enforcement agency

Oral or written recommendation from law enforcement agency or HUD.

Families who claim to be displaced by hate crimes:

A written statement from law enforcement agency, HUD, Fair Housing or other agency responsible for non-discrimination advocacy. The statement should contain the approximate number of occurrences and the date of last occurrence.

Displacement by inaccessibility of unit:

A statement from the owner of the critical elements that are inaccessible, and that the owner is not going to make the needed modifications, or permit the family to make the modifications

Inspection by the PHA to verify inaccessibility of critical elements

A statement from the owner of the building that the accommodations required will not be made

If the owner permits the tenant to make the modifications, verification that the family cannot afford the expense

Displacement by HUD disposition of a project: Written verification from HUD.

Determination of Standard Replacement Housing: Inspection by a [PHA/other inspector/certification by landlord].

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

- **Substandard Housing:**

Families who claim to be living in a substandard housing unit:

Written **[or oral]** verification by a government agency

PHA inspection

Landlord's statement of unit condition

Inspection form completed and certified by family head of household

"Homeless" Families:

Written certification by a public or private facility providing shelter, the police, or a social services agency.

[List the agencies from which the PHA will accept certifications].

The PHA designates agencies for this purpose. Any suitable agency may verify.

Prior to processing the application, the PHA requires a second certification from the same source that the applicant is not yet permanently housed and has been continuously homeless or temporarily housed since claiming the preference.

A PHA inspector may verify that the applicant is living in a place not normally used for human habitation.

If a family is in transitional housing and wishes the PHA to hold the family's place on the waiting list, a statement is required from the agency providing the transitional housing.

- **Rent Burden:** Paying more than 50% of income for rent:

Families will be required to verify their income, the amount of rent and utilities they are obligated to pay, and the period of time they have been residing in the unit.

Families must furnish copies of rental receipts/the lease/canceled checks/money orders.

The PHA **[may/must]** contact the landlord directly by mail or telephone.

The PHA compares the address with address(es) used on other documents in the file.

In cases where the family pays rent to a co-renter or sublets the unit, the PHA requires a certification from the person who receives the money from the applicant, and verification from the owner that the family resides in the unit.

If there is no rental agreement, and no other landlord verification, the PHA will require documentation for **[specify number of]** months

If there is no lease or occupancy agreement and the family is receiving public assistance, the PHA may verify the amount of rent and address of the unit with the appropriate social service agency.

Instructions for Preparing Chapter 4: Applications, Waiting List and Tenant Selection

If there is no lease or occupancy agreement, and the family is not receiving public assistance, the PHA will require receipts and other forms of identification which indicate the residence. Such documents include receipts, telephone bills, utility bills, driver's license, and school records.

To verify the amount due to amortize the purchase price of a manufactured home, copies of the most recent payment receipts, canceled checks or money order receipts, or a copy of the current purchase agreement.

At the family's option, the PHA can use either the actual cost of utilities or the PHA's Section 8 Existing utility allowance schedule. To verify the amount the family actually paid for utilities not included in the rent (if the Section 8 Utility Allowance Schedule is not used):

- Copies of receipts, canceled checks, bills showing previous utility payments

- Written verification of consumption costs directly from the utility or service supplier

Verification must be provided for a minimum period of **[specify number]** months

Documentation of the amount of rent due must be provided for a period of **[specify number]** months.

Instructions for Preparing Chapter 5: Briefings and Voucher Issuance

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on the PHA's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

These policies are contained in two parts:

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the PHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

This section provides an overview of HUD-required briefings and family obligations under the voucher program. **No policy decisions are required.**

Instructions for Preparing Chapter 5: Briefings and Voucher Issuance

5-I.B. BRIEFING [24 CFR 982.301]

HUD requires that applicants attend a briefing, but allows the PHA discretion regarding some aspects of the process, such as whether briefings will be conducted individually or in groups, who must attend the briefing, and how to help families that have difficulty understanding the program's requirements. This section addresses these areas of PHA discretion.

Decision Point: Will briefings be conducted individually or in groups? (Model plan, p. 5-2)

Things to Consider

- Families may be briefed individually or in a group setting. In determining which approach to take, PHAs may want to consider the amount of leasing activity that the PHA is experiencing, program size, jurisdiction size, family needs, and staffing levels (HCV GB p. 8-8).

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Briefings will be conducted in group meetings.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Briefings will be conducted in group meetings. **Group meetings will be conducted either in person, via phone, or through a virtual option.**

Decision Point: Who is required to attend the briefing? (Model plan, p. 5-2)

Things to Consider

- Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the PHA may approve another adult family member to attend the briefing.
- Some PHAs require that all adult household members attend the briefing, while other PHAs require attendance only by the head of household. (HCV GB p. 8-8).
- Requiring all adult family members to attend the briefing is the best guarantee that all family members are informed about PHA policies and program requirements, particularly family obligations and grounds for termination of assistance. There is some indication that when all adult members are successfully briefed, incidents of misreporting, fraud, and lease violations decrease.
- On the other hand, requiring all adult members to attend can create scheduling problems for the PHA and the family. It may be particularly problematic if one or more adult family members are working.

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- Regardless of who is required to attend the briefing, PHAs may want to build exceptions into the policy (similar to the model plan language) in order to give the PHA maximum flexibility.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Generally, all adult household members are required to attend. If this creates a hardship, the PHA may waive this requirement, at its sole discretion.

- Option 2: Delete model plan language and substitute language as shown below.*

Generally, the head of household and spouse (or co-head) are required to attend the briefing. If the head, spouse or co-head are unable to attend, the PHA may waive this requirement as long as one of these persons attends the briefing.

- Option 3: Delete model plan language and substitute language as shown below.*

Generally, all adult family members are required to attend the briefing. If any adult member is unable to attend, the PHA may waive this requirement as long as the head, spouse or co-head attends the briefing.

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: How will the PHA help applicant families that have difficulty understanding the briefing? (Model plan, p. 5-2)

Things to Consider

- The PHA is under an obligation to ensure that families understand how the program works and what their obligations will be if they receive a subsidy. Therefore, the PHA must have policies in place to ensure that any family that needs help to understand the program obtains that assistance.
- The model plan states that briefings will be conducted in English, and that for limited English proficient (LEP) applicants identified in the PHA's LEP Implementation Plan, the PHA will provide translation services in accordance with the PHA's LEP plan. The LEP plan is not part of the model administrative plan. Therefore, PHAs that adopt the model language must ensure that they have an LEP plan that explains the translation services to be offered and the circumstances under which they will be provided.
- PHAs with significant numbers of non-English speakers, may want to consider offering briefings in other languages.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan (See Chapter 2).



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Notification and Attendance



Decision Point: What policies will the PHA establish for scheduling briefings and failure to appear at briefings? (Model plan, p. 5-2)

Things to Consider

- For administrative ease and consistency, the policies regarding notification, undeliverable notices, and failure to appear at briefings should be consistent with similar policies elsewhere in the plan (e.g., eligibility interviews, reexaminations).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Oral Briefing [24 CFR 982.301(a)]

HUD requires all oral briefings to include certain topics, and specifies that other topics need to be discussed only if they are applicable. These are listed in the plan. No policy decisions are required.

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Briefing Packet [24 CFR 982.301(b)]

This section lists items that must be included in the briefing packet. **No policy decisions are required.**

Additional Items to Be Included in the Briefing Packet



Decision Point: What additional items, if any, should be included in the briefing packet? (Model plan, p. 5-5)

Things to Consider:

- While PHAs are not required under the regulations to include the HUD pamphlet on lead-based paint *Protect Your Family from Lead in Your Home*, we strongly recommend including this information in the briefing packet.
- PHAs are required to give families information on how to fill out and file a housing discrimination complaint form. Because this form is a required document in the briefing packet, it is logical to also include these instructions in the briefing packet.
- As discussed in section 16-IX.C of the model administrative plan, HUD requires PHAs to provide notice to HCV participants of their rights under the Violence against Women Act of 2013 (VAWA) and 24 CFR Part 5, Subpart L [24 CFR 5.2005(a)] at the time of admission and with all notices of denial and termination. While providing VAWA information at the time of briefing is not required under VAWA 2013, as a best practice, the model policy includes this information.
- The OIG pamphlet “Is Fraud Worth It?” is listed as an additional item in order to be consistent with model plan policies in Chapter 14, Program Integrity. If you decide not to include this pamphlet as part of the briefing packet, the policies in Chapter 14 will also need to be amended.
- The same is true of “What You Should Know about EIV.” Notice PIH 2017-12 strongly encourages, but does not require, PHAs to educate applicants about the Enterprise Income Verification (EIV) system by providing them with a copy of this guide.

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- PHAs may wish to include supplemental materials to help explain the program to participants and owners. These could include any or all of the items listed below:
 - Summary of the items included in the briefing packet
 - Brochures/materials to explain the housing choice voucher program to owners
 - A copy of Form HUD-52641, Housing Assistance Payments Contract for the Housing Choice Voucher Program
 - Explanation of rent reasonableness
 - A description of any PHA policy on security deposits
 - Information on service organizations and utility companies
 - A list of units known to be available for rent, including units outside areas of low-income or minority concentration
 - Explanation of any special programs offered by the PHA, such as FSS
 - Checklist of items to consider before signing a lease
 - Contact information for PHA staff, and/or local service organizations
 - List of items that commonly fail HQS



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will provide the following additional materials in the briefing packet:

The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*

Information on how to fill out and file a housing discrimination complaint form

The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking

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

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

Sample HAP Contract
Common HQS Fails



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

5-I.C. FAMILY OBLIGATIONS

Time Frames for Reporting Changes Required By Family Obligations

- Decision Point:** When family obligations require the family to respond to a request or report a change to the PHA, what time frames will be applied? (Model plan, p. 5-6)

Things to Consider

- For administrative ease and consistency, whenever feasible, the model plan language establishes a 10 calendar day time frame for families to report information or respond to requests. In addition, the model plan language establishes that whenever a notice to the PHA by the family is required, that notice must be in writing.

- Option 1:* Use the model plan language shown below. No changes to the model plan are needed.

Unless otherwise noted, when family obligations require the family to respond to a request or notify the PHA of a change, notifying the PHA of the request or change within 10 calendar days is considered prompt notice.

When a family is required to provide notice to the PHA, the notice must be in writing.

- Option 2:* Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Family Obligations [24 CFR 982.551]

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. Many of the family obligations do not require a PHA policy. Only those obligations that do require PHA policy decisions are presented in this section.

- Decision Point:** When determining whether an HQS violation is family caused, what will be considered “damages beyond ordinary wear and tear”? (Model plan, p. 5-6)

- Option 1:* Use the model plan language shown below. No changes to the model plan are needed.

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- Option 2:* Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: When determining whether a family has committed any serious or repeated violations of the lease, what information will the PHA consider when determining whether the violations are “serious” or “repeated”? (Model plan, p. 5-7)

Things to Consider

- The definition of serious or repeated violations of the lease is also included in section 12-I.D, “Mandatory Termination of Assistance.” If any changes are made to the definition here, they must also be made in Chapter 12.
- This policy provides examples of serious and repeated violations and also establishes a general criterion for the PHA to use when determining whether lease violations are serious and repeated.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner’s notice to evict, police records, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.



Decision Point: What type of notice is a family required to provide to the owner and the PHA before moving out of a unit or terminating the lease, and when must the notices be provided? (Model plan, p. 5-7)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the PHA at the same time the owner is notified.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Decision Point: How and when must families request approval to add another family member? (Model plan, p. 5-7)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 3.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: What activities will be considered “subleasing” when the family continues to occupy the unit? (Model plan, p. 5-8)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: Under what circumstances must families report their absence from a unit to the PHA? (Model plan, p. 5-9)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA at the start of the extended absence.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

HUD dictates many policies that PHAs must follow when determining family unit size, and these are presented in the plan. In addition, PHAs have the flexibility to impose their own additional criteria. The policies described in this section are used to determine the voucher size. The voucher size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room



Decision Point: How will the PHA determine the appropriate family unit (voucher size) for families of different sizes and compositions? (Model plan, p. 5-12)

Things to Consider

- Some PHAs have established subsidy standards of 2 persons per bedroom, regardless of relationship (see Option 2). This is the lowest-cost policy that the PHA is permitted to adopt, and may be helpful to PHAs facing greatly limited or reduced funding. However, most PHAs have chosen to establish additional policies that provide separate bedrooms for some types of individuals.
- Although most PHAs issue one-bedroom vouchers to single person families, PHAs are permitted to adopt a policy to issue zero-bedroom vouchers to these families in order to help the PHA reduce program costs. PHAs should only consider this option if the housing stock within the PHA's jurisdiction contains an ample number of zero-bedroom units.
- Other PHA policies for allocating separate bedrooms vary widely. The model policy includes some of the most common elements used by PHAs to determine family unit size, while also taking into account limited or reduced funding.
- The presence of foster children in a family may complicate the PHAs determination of family unit size, particularly if the family is approved to provide foster care, but placements are made on a more temporary basis. For example, a family may provide care for four foster children throughout the year, but none remain longer than 30 days.
- To address this situation a PHA may want to adopt a policy that foster children will only be included in determining a family's unit size if they will be living in the unit for a minimum number of months.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 5) will be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

The PHA will reference the following chart in determining the appropriate voucher size for a family:

| Voucher Size | Persons in Household (Minimum – Maximum) |
|--------------|---|
| 1 Bedroom | 1-2 |
| 2 Bedrooms | 2-4 |
| 3 Bedrooms | 3-6 |
| 4 Bedrooms | 4-8 |
| 5 Bedrooms | 6-10 |

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will assign one bedroom for each two persons within the household.

- Option 3: Select from the additional options below (Note: some options need to be completed by the PHA):*

Children of separate genders regardless of age (i.e., from birth) will be allocated separate bedrooms.

Children of the same gender with an age difference exceeding **[number of]** years will be allocated separate bedrooms.

Unrelated adults of the same gender will be allocated separate bedrooms.

Persons of different generations will be allocated separate bedrooms.

Foster children will be included in determining unit size only if they will be in the unit for more than **[number of]** months.

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of different generations will be allocated separate bedrooms.

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Persons of the opposite sex (other than spouse, fiancé, partners, boyfriend, girlfriend, and significant others), and children over age 6) will be allocated separate bedrooms.

Same sex partners will not be allocated separate bedrooms.

Same sex children over the age 6 will be allocated a separate bedroom.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

The PHA will reference the following chart in determining the appropriate voucher size for a family:

| Voucher Size | Persons in Household (Minimum – Maximum) |
|---------------------|---|
| 1 Bedroom | 1-2 |
| 2 Bedrooms | 2-4 |
| 3 Bedrooms | 3-6 |
| 4 Bedrooms | 4-8 |
| 5 Bedrooms | 6-10 |

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5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining the family unit size for a particular family, the PHA may grant an exception to its subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- Need for an additional bedroom for medical equipment
- Need for a separate bedroom for reasons related to a family member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom.



Decision Point: What criteria can be used as the basis for a request for an exception to the PHA's established subsidy standards? (Model plan, p. 5-13)

Things to Consider

- The model plan allows families to request exceptions based on any of the criteria identified in the regulations (age, sex, health, etc.). However, PHAs could limit or specify the types of exceptions they will consider. For example, exception requests could be limited to those who are disabled and need the exception as a reasonable accommodation. This type of policy would limit the number of requests to be processed, but could also unduly restrict the PHA from granting exceptions in cases where they may be warranted.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: What information must a request for an exception contain, and how will the PHA process such requests? (Model plan, p. 5-13)

Things to Consider

- PHAs should consider whether or not the model language giving the PHA 10 business days to notify the family of its decision to approve or deny the request is reasonable. In making this determination the PHA should consider conditions at the PHA (e.g. staffing, workload, etc.), as well as the impact on the family of further delaying the lease-up process.
- PHAs could require the family to submit an exception request within a certain number of days of the PHA's determination of family unit size. However, this may unnecessarily restrict the PHA's ability to process a valid request in cases where the family did not realize the exception was needed until later in the family's search for a unit.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

The PHA will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

- Decision Point: When will vouchers be issued to eligible families? (Model plan, p. 5-14)**

Things to Consider

- The PHA may decide whether to issue the voucher independently or in conjunction with the briefing session. Issuing the voucher immediately after the briefing session is an efficient use of staff time and also limits the number of times the family must return to the PHA office to complete paperwork. (HCV GB, p. 8-11).

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

- Decision Point: How will the PHA determine whether or not there is sufficient funding to issue vouchers? (Model plan, p. 5-14)**

Things to Consider

- The PHA's policy for determining insufficient funding is contained in Chapter 16. Therefore, the policy in this section simply states that prior to issuing vouchers the PHA will ensure there is sufficient funding in accordance with the policy in Chapter 16.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Prior to issuing any vouchers, the PHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Voucher Rescissions

Because many PHAs will not have the need to rescind vouchers, the model plan does not include policy language on this issue. For those who are concerned about the need to rescind vouchers, policy language is provided below. If this language is added, you may want to change the section heading to Voucher Issuance and Rescissions, as well as add a subheading entitled Voucher Rescissions.



Decision Point: What policies, if any, does the PHA need concerning rescission of vouchers?

Things to Consider

- Although vouchers are issued on the basis that the PHA will have enough money to subsidize families that locate an approvable unit within the term of their voucher, it is possible for the PHA to discover after vouchers have been issued that there is not enough funding to provide subsidy to all of the applicant families that are currently searching for a unit. If this occurs, the PHA may need to rescind vouchers.
- This guide includes two options for voucher rescission language. The first distinguishes between vouchers for which a Request for Tenancy Approval (RTA) has been submitted to the PHA and those for which an RTA has not been submitted. This distinction is intended to allow families that have already found a unit to continue with the leasing process, help maintain good relationships with prospective landlords, and utilize work that may have already been completed by a PHA (e.g. HQS inspection).
- Another option for rescinding vouchers is to simply pull them back in the same order in which they were issued, beginning with vouchers that were issued most recently. Although this method doesn't consider where families are in the lease-up process or work the PHA may have already completed in processing an RTA, it may be perceived as the most impartial method.

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- You will notice that the policy language below states that families who have their vouchers rescinded will be returned to their former position on the waiting list. Although it is conceivable that a PHA could develop a different policy, fairness dictates that families, who have had vouchers rescinded through no fault of their own, should not lose their position on the waiting list.

Option 1: Follow the model plan and do not include policy language on rescinding vouchers.

Option 2: Add language as shown below.

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

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

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

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

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

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

Option 3: Add language as shown below.

If, due to budgetary constraints, the PHA must rescind vouchers that have already been issued to families, vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

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

Option 4: Insert PHA-established policy.

*****No change to policy. Current policy listed below for the purpose of this form.*****

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Prior to issuing any vouchers, the PHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16. If the PHA determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

5-II.E. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]



Decision Point: What is the time limit for the initial term of a voucher? (Model plan, p. 5-15)

Things to Consider

- The PHA should consider the local housing market when establishing policies governing the voucher term. In areas where the vacancy rate is low and renters compete for affordable units, it is likely to take voucher holders longer to locate an approvable unit. PHAs in these areas may wish to establish a longer initial term for the voucher.
- The minimum initial voucher term is 60 calendar days; there is no maximum initial voucher term.
- Generally, PHAs that establish an initial voucher term of longer than 60 days have more restrictive policies for extensions than other PHAs; however, this is not required by regulations.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the PHA grants an extension.



Option 2: Delete model plan language and substitute language as shown below.

The initial voucher term will be 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless an extension has been granted by the PHA.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Extensions of Voucher Term [24 CFR 982.303(b)]



Decision Point: What policies will the PHA establish for extensions of the voucher term? (Model plan, p. 5-16)

Things to Consider

- There is no limit on the number of extensions the PHA may approve.
- There is no requirement to offer extensions to voucher terms, with one exception. If a family needs and requests an extension to the initial voucher term as a reasonable accommodation, to make the program accessible to a family member who is a person with disabilities, the PHA must extend the voucher term up to the term reasonably required for that purpose.
- The PHA may require families to report progress in leasing a unit at any time during the initial or extended term of the voucher. However, it is most common for PHAs to require families to report progress in leasing a unit at the time they submit a request for an extension.
- It is not necessary to include the circumstances that the PHA will consider when determining whether or not to extend a voucher based on reasons beyond the family's control. However, including that information in the model plan does help to make the PHA's policies more transparent, while still providing flexibility to the PHA.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any extension must be requested in writing prior to the end of the voucher term. The PHA will automatically approve one 30-day extension upon written request from the family.

The PHA will approve additional extensions only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by the PHA. Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by the PHA

Whether family size or other special circumstances make it difficult to find a suitable unit

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- Option 2: Delete model plan language and substitute language as shown below.*

Generally, the PHA will not approve extensions to the term of the voucher.

The PHA will approve extensions only in the following circumstances:

An extension is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by the PHA. Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by the PHA

Whether family size or other special requirements make finding a unit difficult

Any request must include the reason(s) an extension is necessary. The PHA may require the family to provide documentation to support the request.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 5: Briefings and Voucher Issuance



Decision Point: What are the requirements for requesting, and approving or denying extensions of the voucher term? (Model plan, p. 5-16)

Things to Consider

- The model language gives the PHA 10 business days to approve or deny the voucher extension request. As long as the family submits the request prior to the expiration date of the voucher term, this language allows the PHA to approve the extension request retroactively.
- If your PHA does not want to allow for retroactive approvals, language may be added that requires the family to submit the written request within a certain number of days prior to the expiration date of the voucher.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any request for an additional extension must include the reason(s) an additional extension is necessary. The PHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to the PHA prior to the expiration date of the voucher (or extended term of the voucher). The PHA will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision.

If an extension is granted, the family must submit a Request for Tenancy Approval and proposed lease before the end of the extension period.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 5: Briefings and Voucher Issuance

Expiration of Voucher Term



Decision Point: How will the PHA deal with families whose voucher term expires without an extension? (Model plan, p. 5-17)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If an applicant family's voucher term or extension expires before the PHA has approved a tenancy, the PHA will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.



Option 2: If family will not be required to reapply for assistance when voucher expires, delete model plan language and substitute language as shown below.

When an applicant family's voucher term expires, the PHA will automatically place the family back on the waiting list. The family's application date will be changed to the date the voucher expired.

Within 10 working days after the expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family is not required to reapply for assistance. The notification will also include the revised date of the family's application.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 5: Briefings and Voucher Issuance

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan. Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 5: Briefings and Voucher Issuance

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to income and subsidy determinations. The chapter is organized as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

Section 6-I.A of the model plan provides the general definition of *annual income* and explains how Part I is organized. The full texts of HUD regulations are provided in exhibits at the end of Chapter 6 of the plan as follows:

- *Annual Income Inclusions* (Exhibit 6-1)
- *Annual Income Exclusions* (Exhibit 6-2)
- *Treatment of Family Assets* (Exhibit 6-3)
- *Earned Income Disallowance for Persons with Disabilities* (Exhibit 6-4)
- *The Effect of Welfare Benefit Reduction* (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of Part I describes how each source of income is treated for the purposes of determining annual income.

HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In the plan, however, the discussions of most income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

This section in the plan discusses household composition only as it relates to income calculations. Additional information on household composition as it relates to eligibility is found in Chapter 3 of the model plan.

Review the chart included in the model plan that summarizes how family composition affects income determinations.

Temporarily Absent Family Members

HUD rules require the PHA to count family members approved to live in a unit, even if a family member is temporarily absent from the unit [HCV GB, p. 5-18]. This section of the plan provides PHA policies on several types of temporarily absent family members.



Decision Point: How will the PHA determine whether a family member is temporarily or permanently absent? (Model plan, p. 6-4)

Things to Consider

- It may or may not be financially advantageous for the family to continue to consider an absent person as a member of family. The model plan uses 180 days as the dividing line between temporary and permanent absences. This is not regulatory. However, the concept is consistent with the HUD regulation that addresses absence of the entire family.
- The definition of “temporarily” absent is also contained in section 3-I.L., Absent Family Members. If changes are made to the policy here, they must also be made in Chapter 3.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.



Option 2: Edit the model plan to reflect the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Absent Students

HUD does not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members.



Decision Point: How does the PHA wish to address family membership for students living away from home? (Model plan, p. 6-4)

Things to Consider

- Since the earned income of a full-time student above \$480 is excluded from annual income, a family generally benefits by continuing to count the student as a family member. The family retains the dependent deduction. The student's presence in the family may or may not make a difference in voucher size.
- The model language basically enables staff to assume the student is a family member unless evidence to the contrary is available or the family declares the student is no longer a family member.
- This policy is also contained in section 3-I.L., Absent Family Members. If changes are made to the policy here, they must also be made in Chapter 3.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].



Decision Point: How will the PHA determine whether a child's placement in foster care is temporary or permanent? (Model plan, p. 6-4)

Things to Consider

- This policy is also contained in section 3-I.L., Absent Family Members. If changes are made to the policy here, they must also be made in Chapter 3.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Absent Head, Spouse, or Cohead



Decision Point: Will the PHA permit an exception to the 180 day rule for absent persons in the case of an absent head, cohead or spouse? (Model plan, p. 6-4)

Things to Consider

- The model plan makes an exception for persons designated as the head, cohead, or spouse if the reason for the absence is employment. This would include, for instance, a head of household who does construction work in another state, or a spouse who has been called to active military duty. In such circumstances the absent family member remains a member of the family and all of the employment income is considered available to the household.
- Alternatively, the PHA could follow the general 180 day policy, determine that the absent person is no longer a member of the family, and count only regular income that the absent person sends to the family.
- This policy is also contained in section 3-I.L., Absent Family Members. If changes are made to the policy here, they must also be made in Chapter 3.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

- Option 2: Edit the model plan to reflect the PHA's policy.*

- Option 3: Delete the model plan language.*

Note: This means that a head, spouse, or cohead absent more than 180 consecutive days will not be considered a member of the family.

Family Members Permanently Confined for Medical Reasons

The *HCV Guidebook* specifies that a family member permanently confined to a nursing home or hospital is no longer considered a family member [HCV GB, p. 5-22]. The model plan includes this safe harbor language and elaborates on this guidance by (1) establishing how the PHA will determine if the family member is permanently absent and (2) clarifying that if the permanently absent member is the only person who qualifies the family for the medical expense deduction, the family is no longer eligible for the medical expense deduction.

- Decision Point: How will the PHA treat family membership for a family member who is permanently confined for medical reasons? (Model plan, p. 6-5)**

Things to Consider

- Counting the confined person as a family member could be either an advantage or a disadvantage to the family. If income attributable to the family member is limited and deductible expenses are high, the family generally will pay a lower family share by counting the confined person as a member of the family. If the reverse were true (high income, low expenses), not counting the person would be more advantageous.
- Determining that the permanently confined person is no longer a family member is the safe harbor policy, but this rule is not specified in the regulations.
- Using the same regulation, Handbook 4350.3 (for multifamily housing programs) permits the family to decide whether to consider the person a family member but specifies that a permanently absent family member cannot be the head or spouse. This policy is offered as Option 2. However, you should be aware that using this policy means not following HUD's safe harbor recommendation for the HCV program. Although a HUD reviewer could question the decision, using Option 2 should not result in a monitoring finding.
- Part of this policy is also contained in section 3-I.L., Absent Family Members. If changes are made to the policy here, they must also be made in Chapter 3.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.



Option 2: Use the policy permitted by Handbook 4350.3. Delete the language in the model plan and insert the language below.

An individual permanently confined to a nursing home or hospital may not be named family head, spouse, or cohead but may continue as a family member at the family's discretion. The family has a choice with regard to how the permanently confined individual's income will be counted. The family may elect either of the following:

- (1) *Include* the individual's income and receive allowable deductions related to the medical care of the permanently confined individual.
- (2) *Exclude* the individual's income and do not receive allowances based on the medical care of the permanently confined individual.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Joint Custody of Dependents

When a joint custody agreement causes a child to live in more than one location, the PHA must determine whether the child is a member of an assisted family.



Decision Point: How will the PHA determine family membership in the case of joint custody? (Model plan, p. 6-5)

Things to Consider

- Generally speaking, a family declares who the members of the family are. The PHA's main concern in this area is that a child not be counted as a dependent in two assisted households.
- Two major considerations in making this decision are whether or not the family has primary custody, and the amount of time dependents subject to a joint custody arrangement actually live in the household.
- The model plan states that a dependent in these circumstances must live in the unit 50 percent or more of the time, in order to be considered a member of the assisted family. This language is based on guidance in Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.
- PHA staff need guidance about how to handle the situation when there is a dispute about who should benefit from the dependent deduction. The model plan includes this guidance.
- This policy is also contained in section 3-I.L., Absent Family Members. If changes are made to the policy here, they must also be made in Chapter 3.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, [school records](#), or an IRS return showing which family has claimed the child for income tax purposes.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Caretakers for a Child

This policy is intended to address those relatively rare and temporary circumstances in which children remain in a unit without a parent or designated guardian. This might happen in the case of the death of the parent. In such circumstances, the care arrangements for the child may be formal or informal.



Decision Point: How will the PHA determine whether a caretaker is a family member? (Model plan, p. 6-6)

Things to Consider

- The model plan makes a distinction between an official caretaker (designated by a public agency) and an informal one (friend or relative).
- The PHA must address whether and when a caretaker becomes a family member.
- The PHA must address how the income of the new guardian will be handled and at what point entitlement to the voucher transfers to the caretaker.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)].

Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. However, under certain conditions, HUD authorizes the PHA to use other than current circumstances to anticipate income.



Decision Point: How will the PHA anticipate annual income if current circumstances are not the best indicator of expected future income? (Model plan, p. 6-7)

Things to Consider

- The PHA must have a policy that determines under what conditions current circumstances will not be used. The purpose of this policy is to help staff and families understand both when another method would be appropriate and what the alternative approach would be.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the PHA will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The PHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the PHA determines additional information is needed.

In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

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

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Known Changes in Income

If the PHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

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

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

6-I.D. EARNED INCOME [24 CFR 5.609(b) and (c)]

This section of the model plan lists types of **earned** income and specifies whether they are included in or excluded from annual income. Read the model plan to review the complete list of earned income sources to make sure that your PHA is complying with HUD's requirements. PHA policy decisions are needed in some areas.

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]

The regulation at 24 CFR 5.609(b)(1) requires the PHA to include in annual income all forms of "compensation for personal services." While some forms, like regular wages and salaries, may be fairly easy to anticipate, other forms, like bonuses and commissions, may vary considerably from one pay period to the next.



Decision Point: How will the PHA anticipate income for persons who regularly receive bonuses or commissions? (Model plan, p. 6-9)

Things to Consider

- The model plan suggests a reasonable policy for anticipating income from bonuses and commissions.
- The PHA may prefer to adopt no specific policy in this area, instead falling back on the general policy established for projecting income in section 6-I.C.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]



Decision Point: How will the PHA determine if income is temporary, nonrecurring, or sporadic? (Model plan, p. 6-9)

Things to Consider

- It is not the amount of income received or how often it is received that determines whether income is temporary, nonrecurring, or sporadic. The model plan language clarifies that the determination is based on the whether the income can be anticipated, is received periodically, or can be reliably predicted.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

State and Local Employment Training Programs [24 CFR 5.609(c)(8)(v)]

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.



Decision Point: How will the PHA treat income from state and local employment training programs? (Model plan, p. 6-11)

Things to Consider

- The PHA must clarify the meaning of *training program* and *incremental earnings and benefits*. Since both of these terms were defined by HUD in expired Notice PIH 98-2, the model plan adopts these HUD definitions as safe harbor.
- The PHA must develop a policy indicating how it will determine pre-enrollment income. HUD permits the PHA to make a policy that would define pre-enrollment income based upon recent history rather than current circumstances [see expired Notice PIH 98-2].
- The regulation permits this exclusion only while the individual participates in the training program. Therefore the PHA must specify what kind of notification is required when the family member stops participating in the training program. The model plan references Chapter 11. Therefore the family would be required to report the end of the training program only if the PHA's interim reporting policy covers this kind of change. You may wish to consider modifications to your interim reporting policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

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

End of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

HUD-Funded Training Programs [24 CFR 5.609(c)(8)(i)]

For consistency, the model plan recommends using the same definition of *training program* for HUD-funded training programs as for state and local employment training programs.

- Decision Point: Will the PHA adopt the same definition of *training program* for HUD-funded training programs as for state and local employment training programs? (Model plan, p. 6-12)**

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]

The body of the model plan provides a summary of the earned income disallowance (EID) requirements, and Exhibit 6-4 presents the entire regulation. Read the model plan to be sure you are complying with HUD requirements.

Eligibility

No PHA policy decisions are required.

Calculation of the Disallowance

No PHA policy decisions are required.

~~The streamlining final rule requires PHAs to establish two separate calculation methods for the disallowance. The original calculation method must be used for participants who qualified for the EID prior to May 9, 2016. Because the original calculation method requires a maximum lifetime disallowance period of up to 48 consecutive months, PHAs may need to utilize the original calculation until 2020.~~

~~The revised calculation method must be applied for any participants who qualify for the EID on or after May 9, 2016.~~

~~Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.~~

~~Original~~ Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

The EID regulations state that the initial 12-month exclusion period begins “on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment” [24 CFR 5.617(c)(1)]. However, in frequently asked questions on the EID, HUD has stated that, for tracking and administrative purposes, a PHA may begin the EID on the first day of the month following new employment or an increase in earnings.



Decision Point: When will the initial EID exclusion period begin? (Model plan, p. 6-14)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

~~Second 12-Month Exclusion and Phase In~~

~~No PHA policy decisions are required.~~

~~Lifetime Limitation~~

~~Because the end of a family member's eligibility for the full or partial EID may not coincide with the family's annual reexamination cycle, the PHA must decide whether to impose special interim reporting requirements related to the EID. Even though general reexamination requirements are covered in Chapter 11, the model plan also addresses this issue in the EID section.~~

~~**Decision Point:** Will the PHA establish an interim reporting requirement related to the EID? (Model plan, p. 6-14)~~

~~Things to Consider~~

- ~~• HUD encourages PHAs to establish an interim reporting requirement specifically related to the EID even if the PHA's general policy is not to require interim reporting. Otherwise the family could receive the benefit of the disallowance for a longer period than is appropriate.~~

~~*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*~~

~~During the 48-month eligibility period, the PHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).~~

~~*Option 2: Do not establish an interim reporting policy related to the EID. Delete the model plan language.*~~

~~*Option 3: Use PHA established policy. Edit or delete the model plan language and insert the PHA's policy.*~~

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

~~Revised Calculation Method~~

~~Initial 12-Month Exclusion~~

~~During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.~~

~~**Decision Point: When will the initial EID exclusion period begin? (Model plan, p. 6-15)**~~

Things to Consider:

- ~~• For consistency, the model plan recommends using the same policy for the original and revised calculation methods.~~

~~*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*~~

~~The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.~~

~~*Option 2: Use PHA established policy. Edit the model plan language or delete it and insert the PHA's policy.*~~

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

Decision Point: How much earned income will be excluded during the second 12-month period under the revised calculation method? (Model plan, p. 6-1514)

Things to Consider:

- The streamlining final rule requires that PHAs exclude “at least 50 percent” of the applicable income increase during the second 12-month exclusion period. Therefore a PHA could choose to exclude 50 percent, 75 percent, 100 percent, or any percentage of the increase at or above 50 percent.
- For ease of administration, the default policy calls for excluding 100 percent of the income increase during the second 12-month period. Under Option 1, a qualifying participant would have 100 percent of the increase attributable to employment excluded for 24 consecutive months.
- If your PHA wishes to exclude less than 100 percent of the increase during the second year, select Option 2. Note that you must fill in a percentage amount of 50 percent or more.
- Option 2 includes an interim reporting requirement related to the EID. Without this policy the family could receive the benefit of the disallowance for a longer period than is appropriate.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.



Option 2: Exclude less than 100 percent of increased income during the second 12-month period. Indicate the desired percentage amount. Delete the model plan language and insert the following:

During the second 12-month exclusion period, the PHA will exclude **[insert percentage number]** percent of any increase in income attributable to new employment or increased earnings.

During the 24-month eligibility period, the PHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her baseline income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Lifetime Limitation

No PHA policy decisions are required.

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6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

24 CFR 5.609(b)(2) indicates that net income from a business or profession must be included in annual income. The complete text of the regulation is provided in the model plan. PHA policies are required in the following areas:

- Definitions for calculating business income
- Treatment of negative net income
- Withdrawals from a business
- Co-owned businesses

Definitions for Calculating Business Income

HUD uses several financial terms in the regulation but does not define them. The model plan clarifies the meaning of these terms.

Business Expenses

Calculation of net income requires that business expenses be deducted, but the regulation provides no list of allowable business expenses.



Decision Point: How will the PHA determine what qualifies as a business expense? (Model plan, p. 6-1615)

Things to Consider

- IRS regulations provide a consistent standard for evaluating business expenses. However, IRS rules also address issues that are rare for the types of business that generally will be owned by families receiving housing assistance. The PHA may wish to develop its own description of business expenses that is tailored to the types of businesses actually encountered.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Business Expansion

HUD rules specify that the cost of business expansion may not be used to determine net income from a business but does not define *business expansion*.



Decision Point: How will the PHA define *business expansion*? (Model plan, p. 6-~~4615~~)

Things to Consider

- The definition provided in the model plan is not found in IRS rules but provides a supportable, yet simple, definition of *business expansion*.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate a business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Capital Indebtedness

HUD rules specify that amortization of capital indebtedness cannot be counted as a business expense for the purpose of determining net income. The language included in the model plan explains what this means and clarifies how capital indebtedness is handled in rent calculations.



Decision Point: How is *capital indebtedness* defined? (Model plan, p. 6-~~4615~~)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Negative Business Income

The model plan borrows language from HUD Handbook 4350.3 [p. 5-10] to clarify that no income will be counted if business income is negative and that losses cannot offset other income.

Withdrawal of Cash or Assets from a Business

The regulation requires the PHA to include in annual income the value of cash or assets withdrawn from a business unless the withdrawal reimburses a family member for investments the family has made in the business. However, it gives no guidance about what constitutes an investment that may be reimbursed.



Decision Point: How will the PHA define investments in a business that may be reimbursed? (Model plan, p. 6-1716)

Things to Consider

- The model plan identifies both cash investments and “in-kind” contributions that would be considered investments in a business. You may want to identify other types of investments that are typical of businesses encountered among HCV participants.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Co-owned Businesses

The regulation and HUD guidance do not provide information about how to treat a business that is co-owned by someone who is not a member of the family.



Decision Point: How will the PHA treat the income from a business that is co-owned by someone who is not a member of the family? (Model plan, p. 6-1716)

Things to Consider

- Since HUD is silent on this subject, the administrative plan could also remain silent. If co-owned businesses are rare, you may wish to eliminate this language.
- The intent of including this language is to help staff evaluate whether the income the family claims from the business is realistic.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

6-I.G. ASSETS [24 CFR 5.609(b)(3); 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section provides guidance on how different types of assets are valued and how income from these assets is established.

The section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset. Each type of asset covered in the model plan is identified below. Only those that require a PHA policy are discussed. Read the model plan to make sure your PHA is following HUD’s rules.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The model plan provides a policy clarifying how the PHA will deal with situations in which something other than current circumstances is used to determine income from an asset.



Decision Point: What actions will the PHA take when information other than current circumstances is used to determine income from an asset? (Model plan, p. 6-1817)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Valuing Assets

Decision Point: What are considered reasonable costs that would be incurred when disposing of an asset? (Model plan, p. 6-~~19~~18)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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 [HCV GB, p. 5-28].

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Lump-Sum Receipts

No PHA policy decisions are required.

Imputing Income from Assets

Decision Point: How will the PHA establish the passbook savings rate for imputed asset income? (Model plan, p. 6-~~19~~18)

Things to Consider

- Notice PIH 2012-29 requires PHAs to establish an imputed asset passbook savings rate based on the national average rate. The rate was previously established by the HUD field offices.
- The imputed asset income calculation is only performed if the net value of the family's assets exceeds \$5000.
- The PHA may establish the rate within 0.75 percent (three quarters of one percent) of the national rate. This is "safe harbor" guidance from the notice. The rate must be reviewed at least annually to ensure that it is still within the safe harbor range.
- Acceptable strategies could include:
 - Setting the rate at the amount of the national average
 - Rounding the rate to the nearest quarter-percent within the safe harbor range
 - Setting the rate at zero percent, as long as the national rate does not exceed 0.75 percent
 - Setting the rate at 0.75 percent. Using this method, the PHA would remain in compliance with the safe harbor guidance when the national rate is anywhere from zero percent to 1.5 percent.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- Option 1 states that the PHA will initially use the current national rate. The rate itself is not specified in the default policy. This reduces the administrative burden by enabling the PHA to adjust the rate as required without seeking Board approval for future adjustments.
- Option 1 also provides that the PHA passbook rate will be reviewed annually, but will not be revised unless the current PHA rate is no longer within HUD's safe harbor. If it is necessary to revise the rate, the current national rate will be used.
- For audit purposes, Option 1 states that the passbook rate will be reviewed annually in December, and that any resulting change will be effective on February 1 of the following year. This is to ensure that the PHA will not need to recalculate asset income for annual reexaminations which have already been completed.
- Option 2 permits the PHA to set the rate at zero percent. While this method also reduces administrative burdens, it requires the PHA to adjust the rate if the national rate increases to more than 0.75 percent.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****The Admin. updated to reflect below model plan language.*****

The PHA ~~will~~ initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually, ~~in December of each year~~. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

~~The effective date of cChanges to the passbook rate will take effect on February 1 following the December review. be determined at the time of the review.~~



Option 2: Delete the model plan language and substitute the following.

The PHA ~~will~~ initially set the imputed asset passbook rate at zero percent.

The PHA will review the passbook rate annually. If the national rate is at or below 0.75 percent, the PHA will continue to use zero percent. If the national rate exceeds 0.75 percent at the time of the annual review, the PHA will adjust the rate to the current national rate.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Determining Actual Anticipated Income from Assets

No PHA policy decisions are required.

Withdrawal of Cash or Liquidation of Investments

No PHA policy decisions are required.

Jointly Owned Assets

In its “Summary of Asset Inclusions and Exclusions,” the *HCV Guidebook* states the following [p. 5-25]:

- Assets include “assets which, although owned by more than one person, allow unrestricted access by the applicant.”
- Assets do **not** include “assets not controlled by or accessible to the family and which provide no income for the family.”



Decision Point: What guidance will the PHA give staff related to assets that are owned by more than one person? (Model plan, p. 6-~~2019~~)

Things to Consider

- The model plan follows the safe harbor guidance in the *HCV Guidebook* by adopting a narrow interpretation of *access*.
- Handbook 4350.3 (for multifamily housing programs) takes a more liberal approach, one that would allow the PHA discretion in dealing with situations in which a family member may legally have unrestricted access to an asset but does not effectively own it. A common example would be a family member whose name is on the checking account of an elderly parent for emergency purposes only. This discretion is offered as Option 2. Since Option 2 does not follow HUD’s safe harbor recommendation for the HCV program, a HUD reviewer could question the decision. However, choosing Option 2 and following it consistently should not result in a monitoring finding.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use the policy permitted by Handbook 4350.3. Delete the language in the model plan and insert the language below.

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset unless the family presents evidence that the asset is not effectively owned by the family member. 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. An asset is not effectively owned by a family member when (1) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family and (2) that other person is responsible for income taxes incurred on income generated by the asset.

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



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Assets Disposed ~~of~~ for Less than Fair Market Value

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

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



Decision Point: What minimum threshold will the PHA establish for disregarding small amounts of assets disposed of for less than fair market value? (Model plan, p. 6-~~21~~20)

Things to Consider

- Establishing such a policy enables the PHA to disregard minimal amounts given as charitable contributions or cash gifts to persons outside the family.
- The amount should be high enough to relieve the PHA and the family of dealing with small gifts or contributions. The model plan language is consistent with guidance given for HUD's multifamily housing programs in Handbook 4350.3. Although this handbook does not apply to the HCV program, it does reflect an amount that HUD has determined is reasonable.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

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

Assets placed by the family in nonrevocable 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.



Option 2: Keep the model plan language but change the threshold from \$1,000 to \$_____.



Option 3: Do not establish a threshold. Delete the model plan language related to this item.



Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Separation or Divorce

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

- Decision Point:** How will the PHA address the regulatory requirement to determine whether a family member received important consideration in a separation or divorce settlement? (Model plan, p. 6-2120)

Things to Consider

- The PHA is not in a position to assess the nature or value of the consideration an individual receives as a result of a divorce or separation. Therefore the model plan specifies that in the case of separation or divorce, the PHA will always assume the family member receives acceptable consideration.

- Option 1:* Use the model plan language shown below. No changes to the model plan are needed.

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.

- Option 2:* Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Foreclosure or Bankruptcy

No PHA policy decisions are required.

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Family Declaration

Decision Point: The PHA needs to describe the declaration process. (Model plan, p. 6-~~2120~~)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Types of Assets

Checking and Savings Accounts

The PHA must count amounts in a family's savings and checking accounts as assets. The model plan establishes how the value of these assets will be determined and how the anticipated income from these assets will be calculated.

Decision Point: How will checking and savings accounts be treated? (Model plan, p. 6-~~2221~~)

Things to Consider

- Using the current balance for savings and the 6-month average balance for checking accounts is a common industry practice. This is a former HUD requirement which is now obsolete but which remains widely accepted.
- Current HUD guidance allows the PHA to establish a policy to determine which balance will be used in determining the value of savings and checking accounts.
- ~~Option 1 calls for using the current balance for savings and the 6-month average for checking.~~
- In order to ease administrative burden, the PHA could elect to use the current balance for both savings and checking accounts. Under this policy, applicants and participants would be required to provide only the most recent statement for either type of account.
- Option 12 calls for using the current balance(s) in determining the value of these accounts.
- Option 2 calls for using the current balance for savings and the six-month average for checking.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Admin plan updated to reflect the below model language.*****

In determining the value of a checking account and savings accounts, the PHA will use the average monthly balance for the last six months. ~~current balance.~~

~~In determining the value of a savings account, the PHA will use the current balance.~~

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

- Option 2: Delete the model plan language and insert the following:*

In determining the value of a checking account, the PHA will use the average monthly balance for the last six months.

In determining the value of a savings account, the PHA will use the current balance.

~~In determining the value of checking and savings accounts, the PHA will use the current balance.~~

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

When family assets are held in investment accounts, calculating asset value and anticipated income can be difficult because of fluctuations in value and rates of return. The model plan provides a clarification of HUD policy related both to how assets are valued and how income is determined.



Decision Point: How will the value of investment accounts and income from these investments be established? (Model plan, p. 6-~~222~~1)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Equity in Real Property or Other Capital Investments

Equity is the estimated current market value of an asset (such as a house) less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

The model plan lists types of property and capital investment that are not counted and explains how assets and income are determined for two types of capital investment: (1) family ownership of a mortgage or deed of trust and (2) joint ownership of real property with someone outside the family unit.



Decision Point: What will be the PHA's methodology in determining market value for the calculation of equity? (Model plan, p. 6-~~23~~22)

Things to Consider

- Calculating equity is an essential part of the process of determining the net cash value of real property. Further, in order to calculate equity in real property, the PHA must determine the market value of the property.
- Notice PIH 2012-3 stipulates that PHAs should determine what methods they will use for determining the market value of residential properties and include this information in their administrative plans.
- The notice offers two equally acceptable approaches for determining the market value of a residential property. The first involves examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value. The notice states that local assessors' offices should be able to provide lists of recent sales to browse and compare, and that some municipalities and private companies (including some internet-based companies) provide local sales information online at little or no cost. In addition, local newspapers often publish sales reports in the real estate or business sections. PHAs may conduct the sales comparison themselves, or may rely on independent sales comparison to assess the market value. The model policy, in line with the notice, opts for this first approach.
- As an alternate approach, the notice states that in most jurisdictions, properties in cities, towns, or villages must be assessed at market value for local tax purposes, and that the PHA can obtain this market value by reviewing the local assessment roll of the owner's most recent property tax liability bill. However, because this may not be the case in every jurisdiction, the model policy has chosen to adopt the first option. Should this be the case in your PHA's jurisdiction, you could modify the model policy to choose this option.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

In determining the equity, the PHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

- Decision Point: How will the PHA determine the payoff amount for the loan in the equity calculation? (Model plan, p. 6-~~23~~22)**

Things to Consider

- Notice PIH 2012-3 states that the participant's monthly mortgage statement will usually contain information on the loan balance remaining on the mortgage. The statement may also include a payoff amount for the loan, which refers to the amount of money (including any prepayment penalty) that it will take to pay off a loan in full.
- The payoff amount is different from the loan balance because the payoff amount often changes depending on how the interest is compounded. For this reason, it gives a more accurate picture of the actual amount that would need to be subtracted from the market value to determine the equity.
- In line with the notice, the model policy states that the PHA will first use the payoff amount for the loan in the equity calculation, if it is available. If not, the PHA will use the loan balance information.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: In determining the net cash value of real property, how will the PHA calculate the expenses to convert to cash? (Model plan, p. 6-2322)

Things to Consider

- Notice PIH 2012-3 states that the PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified in the notice, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash. The notice makes it clear that PHAs should have policies that address the methodology for determining the net cash value of real property in the administrative plan.
- The notice states that expenses to convert to cash may include costs such as sales commissions, settlement costs, and transfer taxes. Realtor expenses traditionally range from about four to six percent of the sales price; taxes (both transfer and property taxes) and any legal fees associated with closing and finalizing the sale of the property generally account for approximately two to four percent. In addition, some mortgages may also contain a prepayment penalty, which could be deducted from the proceeds of the sale.
- However, obtaining the actual costs is not possible because no transaction is taking place. In light of this, for the purposes of calculating expenses to convert to cash for real property, Notice PIH 2012-3 establishes a safe harbor of up to ten percent of the market value of the home. The model policy conforms to this safe harbor standard.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: How will the PHA value real property owned jointly with others outside the family? (Model plan, p. 6-2423)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Trusts

No PHA policy decisions are required.

Retirement Accounts

No PHA policy decisions are required.

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Personal Property

HUD rules exclude from assets necessary items of personal property such as furniture and automobiles [24 CFR 5.603(b)]. However, they do not exclude personal property held as an investment. The model plan establishes how the PHA will value personal property held as an investment and what items of personal property it will consider necessary.

Decision Point: How will the PHA determine the value of personal property held as an investment? (Model plan, p. 6-~~25~~24)

Things to Consider

- The intent of this provision is to prevent families from “hiding” valuable assets as personal property. It is not intended that the PHA make life-style decisions about how a family spends its money.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In determining the value of personal property held as an investment, the PHA will use the family’s estimate of the value. The PHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family’s estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Decision Point: What items of personal property will the PHA consider necessary? (Model plan, p. 6-~~25~~24)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Life Insurance

No PHA policy decisions are required.

6-I.H. PERIODIC PAYMENTS

HUD regulations specifically exclude from annual income a few forms of periodic payments. All other forms must be included. The model plan lists the main categories that are included as well as the specific types that are excluded. It also addresses the treatment of lump-sum amounts that represent the delayed start of a periodic payment. (For a discussion of other lump-sum receipts, see section 6-I.G.)

Periodic Payments Included in Annual Income

No PHA policy decisions are required.

Lump-Sum Payments for the Delayed Start of a Periodic Payment

HUD requires that PHAs include in annual income most lump-sums and prospective amounts that are received as the result of delays in the processing of ongoing forms of periodic income. However, the regulation specifically exempts deferred social security and SSI lump-sum payments, and deferred disability benefits from the Department of Veterans Affairs from this requirement. Deferred lump-sum payments from these sources are **not** counted as income whether they are paid in a single lump-sum or in prospective monthly amounts [24 CFR 5.609(c)(14)].

There are three issues the PHA must address related to lump-sums received as a result of the delayed start of a periodic payment:

- When must the family report receipt of the payments?
- When the lump-sum is reported, will the PHA make a retroactive adjustment of the family's share or include the amount in prospective rent calculations?
- If the family owes the PHA as a result of a retroactive calculation, under what circumstances will the PHA offer a repayment agreement?



Decision Point: How will the PHA handle lump-sum delayed-start payments? (Model plan, p. 6-2625)

Things to Consider

- **Interim Reporting.** If the PHA does not require interim reporting, a family may receive a delayed-start lump-sum payment that is never counted in annual income. You may want to consider whether adjustments to your interim reporting policy in Chapter 11 are needed. For example, the policy could be revised to state that families must report lump-sum payments or must report income increases after the PHA has processed an interim decrease. Similarly, the PHA could establish a policy that makes it possible to postpone processing an interim decrease (e.g., when a family member loses a job) if it is expected that another source of income (e.g., unemployment assistance) will be provided within a reasonable time.

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- **Prospective and Retroactive Calculations.** The second major consideration is whether the PHA will include the lump sum prospectively (as anticipated income at the time of a new reexamination) or complete a retroactive calculation of family share and PHA subsidy.

Counting the lump sum prospectively is attractive because it means the PHA must complete only one HUD-50058 calculation. But adding the lump-sum amount to current anticipated income may artificially inflate the family's ability to pay.

A retroactive calculation more accurately applies the lump sum to the time period for which it was given, but it may cause the PHA to complete several housing assistance payment (HAP) adjustments.

In making this decision, you should consider how long the delays in processing are likely to be in your jurisdiction. If the delays are significant, a retroactive adjustment becomes much more cumbersome.

- **Repayment Agreements.** The model plan language assumes that the PHA will make retroactive calculations and will permit the family to request a repayment agreement. The model plan language discusses these issues in the context of annual reexaminations. You may wish to consider whether any special rules are required related to repayment agreements and adjust Chapter 16 accordingly.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When a delayed-start payment is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Treatment of Overpayment Deductions from Social Security Benefits

No PHA policy decisions are required.

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Periodic Payments Excluded from Annual Income

Decision Point: How will the PHA handle payments for the care of foster children and foster adults? (Model plan, p. 6-~~2726~~)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

6-I.I. PAYMENTS IN LIEU OF EARNINGS

No PHA policy decisions are required.

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6-I.J. WELFARE ASSISTANCE

The model plan identifies welfare assistance as a type of income that must be counted. It also summarizes the rules for counting welfare income when a sanction has been imposed by a welfare agency for noncompliance with certain requirements. Read the language in the model plan to make sure that your PHA is in compliance.



Decision Point: Does the PHA operate in an as-paid welfare rent jurisdiction?
(Model plan, p. 6-2928)

Things to Consider

- The regulation at 24 CFR 5.609(b)(6)(ii) gives special rules for counting welfare assistance in “as-paid” welfare localities. Since “as-paid” localities are the exception, not the rule, the model plan does not include these special rules. Therefore PHAs whose jurisdictions include as-paid welfare localities must add the rules to section 6-I.J in the plan.
- Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Hence the PHA may need to consult with legal counsel to determine the specific language that must be included in the plan.



Option 1: No. No changes to the model plan are needed.



Option 2: Yes, as-paid welfare assistance applies to the PHA’s jurisdiction. (This answer should be consistent with the choice you make in section 6-III.A.) Insert the following subsection after the “Overview” paragraph in the model plan.

Special Rules for As-Paid Welfare Localities [24 CFR 5.609(b)(6)(ii)]

An as-paid welfare assistance system is used in the PHA’s jurisdiction. (See also “Welfare Rent” in section 6-III.A.)

In an as-paid jurisdiction a family receives an amount from a welfare agency specifically for shelter and utilities, and that amount is adjusted based upon the actual amount the family pays for shelter and utilities. The welfare assistance amount specifically designated for rent and utilities is called the “welfare rent.” Because an as-paid welfare assistance system is used, a special calculation of public assistance income is required for welfare recipients who receive HCV assistance.

To determine annual income for public assistance recipients in as-paid localities, the PHA will include: (1) the amount of the family’s grant for other than shelter and utilities and (2) the maximum amount the welfare department can pay for shelter and utilities for the family’s size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.

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6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement *unless* the PHA verifies that the payments are not being made. The PHA must determine what documentation is required to show that the family receives less than the court-ordered amount [HCV GB, p. 5-23].



Decision Point: How will the PHA treat alimony and child support payments when the family reports receiving less than the court-ordered amount? (Model plan, p. 6-~~30~~29)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from someone outside the family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].



Decision Point: How will the PHA define and value regular contributions or gifts?
(Model plan, p. 6-~~3029~~)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

6.I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9); Notice PIH 2015-21]

This section describes what types of student financial assistance must be included in the calculation of annual income and for which students. It also includes definitions needed in order to properly implement the new regulatory requirement. **No policy decisions are required.**

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

This section discusses other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter. **No policy decisions are required.**

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PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

Part II of the model plan discusses five mandatory deductions from annual income provided for in the regulations at 24 CFR 5.611. These deductions include:

- \$480 for each dependent
- \$400 for any elderly family or disabled family
- Unreimbursed medical expenses
- Unreimbursed disability assistance expenses that enable a family member to work
- Reasonable child care expenses that enable a family member to seek work, be employed, or pursue his or her education

Section 6-II.A of the model plan discusses PHA policies with respect to anticipating expenses.

Anticipating Expenses

In the same way that the PHA must anticipate income for the coming year, it must also anticipate family circumstances to determine the deductions for which a family qualifies.



Decision Point: How will the PHA anticipate expenses related to the five deductions?
(Model plan, p. 6-3735)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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6-II.B. DEPENDENT DEDUCTION

No PHA policy decisions are required.

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

No PHA policy decisions are required.

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

PHA policies are required in two areas related to medical expenses:

- Definition of *medical expenses*
- Classifying medical and disability expenses when either could apply

Definition of *Medical Expenses*

HUD recommends that PHAs use IRS Publication 502, *Medical and Dental Expenses*, as a reference for defining what qualifies as a medical expense [VG, p. 27] but requires PHAs to develop their own policies addressing this issue [VG, p. 28].



Decision Point: How will the PHA define *medical expenses*? (Model plan, p. 6-~~39~~37)

Things to Consider

- The PHA could develop its own list of eligible medical expenses, but this would be time-consuming and would not be substantially different from the IRS list.
- NMA recognizes the multitude of fair housing issues that arise when setting medical expense policies. We strongly suggest that you consult with all available HUD and FHEO resources before finalizing this portion of your policy.



Option 1: Use the model plan language, which specifies that the most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses and provides a chart that summarizes the expenses.



Option 2: Develop and insert a specific list of eligible items.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Families That Qualify for Both Medical and Disability Assistance Expenses

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.



Decision Point: How will the PHA count expenses that could be classified as either medical or disability assistance expenses? (Model plan, p. 6-4038)

Things to Consider

- It might appear to make no difference as long as the expense is deducted. But, the decision can have a significant impact on a family's adjusted income because medical expenses are not limited by the earned income of a person enabled to work. See the example below.

Example: Impact of Counting an Expense as Medical or Disability Assistance

A family consists of a head of household and a spouse who is a person with disabilities. The family has expenses of \$10,000 annually in nursing care for the spouse. The family's annual income is \$15,000, including \$8,000 earned by the head of household and \$7,000 from other sources.

If the care is considered a medical expense, the PHA will deduct \$9,550 from annual income.

All medical expenses that exceed 3% of annual income will be deducted:

$$0.03 \times \$15,000 = \$450$$

$$\$10,000 - \$450 = \$9,550$$

If the care is considered a disability assistance expense, the PHA will deduct \$8,000 from annual income.

The expense will be capped by the income that the disability assistance allows the head of household to earn, or \$8,000.

- The model plan provides the maximum allowable benefit to families by recommending that expenses that could be classified as either medical or disability assistance expenses be classified as medical expenses.
- This does not prevent the PHA from determining that some expenses must be classified as disability assistance expenses. For example, if a person with disabilities is the one who is enabled to work, an expense that is obviously completely work related (such as special equipment used only to permit a deaf person to communicate with other employees) would not be considered a medical expense.
- The alternatives to the model plan language would be (1) to count all such expenses as disability assistance expenses or (2) to develop a list of expenses and explain how each should be handled.
- The decision here should be consistent with the language used in section 6-II.E below.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.



Option 2: Count all expenses that could be classified either way as disability assistance expenses. Delete the model plan language and insert the following:

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them disability assistance expenses.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 5.611(a)(3)(ii)]

Unreimbursed disability assistance expenses may be deducted to the extent that the sum of those expenses and any medical expenses for which a family is eligible exceed three percent of annual income.

HUD recommends that PHAs further define and describe eligible auxiliary apparatus [VG, p. 30]. The model plan recommends that the PHA further elaborate on the following topics:

- Implementing the earned income limit, including determining which family is enabled to work
- Defining eligible, necessary, and reasonable disability expenses
- Classifying medical and disability expenses

Earned Income Limit on the Disability Assistance Expense Deduction

When more than one family member is enabled to work, the PHA must establish whose earned income to count when determining the cap on disability expenses. The earned income used to limit the deduction is earned income before any exclusions or disallowances are taken (column 7d of form HUD-50058).



Decision Point: How will the PHA determine who is enabled to work as a result of disability assistance expenses? (Model plan, p. 6-4139)

Things to Consider

- Determining which family member is enabled to work may be straightforward in some situations, but in others it can be quite complex (e.g., when the person with disabilities and another family member are both enabled to work or when a family includes two other working adults).
- A family may be able to demonstrate that disability assistance expenses enable more than one family member to work. The model plan follows the safe harbor guidance in the *Public Housing Occupancy Guidebook*, which states that, in such instances, the incomes of the family members enabled to work are to be combined to determine the cap on expenses.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Eligible Disability Expenses

Eligible Auxiliary Apparatus

Although the *HCV Guidebook* gives examples of auxiliary apparatus, some additional explanation is recommended.



Decision Point: How will the PHA define auxiliary apparatus expenses? (Model plan, p. 6-4240)

Things to Consider

- The model plan elaborates on HUD policy to specifically address the maintenance and upkeep of auxiliary apparatus.
- The language concerning service animals was derived from IRS Publication 502.
- The alternative would be for the PHA to develop its own list of eligible expenses.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Eligible Attendant Care

When a family includes a person with disabilities, the family determines the type of attendant care, if any, that is appropriate for the person. HUD has not provided detailed guidance on the types of attendant care that are eligible for deduction. To ensure consistency, the PHA should elaborate on what this care includes.

Decision Point: What activities can be considered attendant care? (Model plan, p. 6-4240)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Payments to Family Members

No policy decisions required.

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Necessary and Reasonable Expenses

The regulation requires disability assistance expenses to be “necessary” and “reasonable,” but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the medical or care needs of a person with disabilities. Therefore the person’s family, not the PHA, must determine the type of attendant care or auxiliary apparatus that is necessary. However, the PHA must still determine whether the cost of the disability assistance is reasonable.



Decision Point: How will the PHA determine whether disability assistance expenses are necessary and reasonable? (Model plan, p. 6-4341)

Things to Consider

- The model plan language requires the PHA to investigate typical costs in order to determine what is reasonable in the area. You may wish to elaborate on this discussion to describe how the PHA will collect the information (e.g., whether a formal or informal survey will be conducted, who will be contacted, how often, etc).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Families That Qualify for Both Medical and Disability Assistance Expenses

In elderly or disabled households, it is possible that the same expense could be considered either a medical expense or a disability assistance expense. The PHA must clarify for staff how these expenses will be handled.



Decision Point: How will the PHA count expenses that could be classified as either medical or disability assistance expenses? (Model plan, p. 6-4341)

Things to Consider

- See section 6-II.D for a full discussion of this issue.
- To ensure consistency, the PHA should specifically address this issue and be consistent in the language stated here and in section 6-II.D.
- The alternatives to the model plan language would be (1) to count all such expenses as disability assistance expenses or (2) to develop a list of expenses and specify how each would be counted.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.



Option 2: Count all expenses that could be classified either way as disability assistance expenses. Delete the model plan language and insert the following:

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them disability assistance expenses.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD provides a definition of *child care expenses* in the regulations at 24 CFR 5.603(b), and additional guidance is found in the *HCV Guidebook* and in HUD's verification guidance. All of this information is in the model plan. The PHA must clarify implementation issues including:

- How the family qualifies for each eligible activity
- How the earned income limit on child care that enables a family member to work is administered
- What child care expenses are eligible, reasonable, and necessary

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

Reasonable child care expenses that enable a family member to be gainfully employed, to seek work, or to pursue his or her education can be deducted from annual income.

HUD leaves to the PHA the determination of who is enabled to work, seek employment, or further his or her education. When this section uses the term *eligible activity*, it means one or more of these three purposes.



Decision Point: How will the PHA determine which family member is enabled to pursue an eligible activity? (Model plan, p. 6-4442)

Things to Consider

- While the determination may be straightforward in some situations, in others it can be quite complex (e.g., the care may enable one adult to further his or her education and another to work at different times during the day).
- The model plan language places on the family responsibility for identifying which family members are enabled to pursue an eligible activity and provides criteria that the PHA can use in evaluating the family's assessment.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA's policy.

The model plan clarifies how the PHA will determine whether the family qualifies based upon the type of eligible activity. A decision point is provided below for each of the activities.

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Seeking Work



Decision Point: How will the PHA determine whether a family qualifies for the child care expense deduction because a family member is “seeking work”? (Model plan, p. 6-4442)

Things to Consider

- For family members seeking work, the PHA must establish a method for confirming that an individual is actively seeking employment.
- Individuals receiving welfare or unemployment assistance must comply with rules regarding level of effort that are imposed by the agencies providing the assistance. Information about a family member’s efforts may be available directly from the family or from these sources.
- The PHA should select a method of tracking and documenting the family member’s efforts to seek employment that is not unduly burdensome to PHA staff or the family member. The model plan assumes that the PHA will address the adequacy of the family member’s job-seeking efforts only in conjunction with a reexamination. Alternatively, the PHA could establish a policy of conducting more frequent interim reexaminations for families in this category.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA’s policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Furthering Education

The PHA must define the types of educational activities that would qualify a family for child care based upon furthering education.



Decision Point: How will the PHA determine whether a family qualifies for the child care expense deduction because a family member is “furthering his or her education”? (Model plan, p. 6-4543)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA’s policy.

Being Gainfully Employed

The PHA must determine whether a family qualifies for the child care expense deduction because a family member is gainfully employed.



Decision Point: How will the PHA determine whether a family qualifies for the child care expense deduction because a family member is “gainfully employed”? (Model plan, p. 6-4543)

Things to Consider

- Although the PHA will be verifying each family member’s employment as part of determining annual income, the request for a child care expense deduction may require additional information (such as more information about a family member’s work schedule).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA’s policy.

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Earned Income Limit on Child Care Expense Deduction

When more than one family member may be enabled to work, the PHA must determine whose earned income to count when determining the cap on child care expenses. The earned income used to limit the deduction is earned income after any disallowances or exclusions are applied (column 7f of form HUD-50058).



Decision Point: How will the PHA determine which family member is enabled to work? (Model plan, p. 6-4643)

Things to Consider

- HUD rules state that the PHA cannot automatically choose the family member with the lowest income but do not specify another method for determining who is enabled to work.
- The policy the PHA establishes for child care should be consistent with its policy for disability assistance expenses.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA's policy.

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Eligible Child Care Expenses

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

To ensure consistency, the PHA should specify:

- What activities are included under the definition of *child care*
- How the PHA will determine whether child care expenses are necessary and reasonable

Allowable Child Care Activities



Decision Point: What activities are included under the definition of *child care*? (Model plan, p. 6-4744)

Things to Consider

The model plan provides clarification related to several common issues as follows:

- The model plan tries to make a distinction between child care and school by stating that, for school-age children, costs for activities provided by a school during normal school hours are not considered child care. An option would be for the PHA to make a distinction between classroom time and other activities that happen during the day (e.g., field trips).
- The model plan clarifies that general housekeeping is not eligible and that child care paid to a family member living in a family's unit is not eligible.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA's policy.

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Necessary and Reasonable Costs

HUD regulations require child care expenses to be “necessary” and “reasonable,” but HUD provides no further definition of these terms. It is not appropriate for PHA staff to determine the child care needs of individual children. Therefore the family, not the PHA, must determine the type of child care that is necessary. However, PHA staff must still evaluate whether the timing and duration of the child care are consistent with the eligible activities and whether the costs are reasonable for the type of care being provided.



Decision Point: How will the PHA determine that child care expenses claimed by a family are necessary and reasonable? (Model plan, p. 6-4844)

Things to Consider

- The plan enables a family to claim child care expenses not only for the period of time that a family member is engaged in an eligible activity but also for “reasonable transportation time.” This general statement leaves it to staff to determine what is reasonable. An alternative would be for the PHA to impose a specific time (e.g., up to one hour per day for transportation).
- For child care expenses that enable a family member to go to school, the model plan allows one hour of study for each hour spent in class. The PHA could decide to allow no study time at all or change the time allowed.
- The model plan states that, in determining the reasonableness of child care expenses, the PHA will use the schedule of child care costs from [the local welfare agency a qualified local entity that either subsidizes child care costs or licenses child care providers](#). This is the simplest and most cost-effective method of determination. However, you may need or prefer to collect your own data. If so, you may want to use a method similar to the one used for determining whether disability assistance expenses are necessary and reasonable (see section 6-II.E).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from [a qualified local entity that either subsidizes child care costs or licenses child care providers](#)~~the local welfare agency~~. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.



Option 2: Use PHA-developed policy. Edit or delete the model plan language and insert the PHA’s policy.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

This section of the model plan presents the regulatory formula for calculating total tenant payment (TTP). The application of payment standards is covered separately in section 6-III.C, and utility allowances are discussed in section 6-III.D.

Only three policy decisions must be made by the PHA in this section:

- (1) The PHA must specify whether any part of its jurisdiction is an “as-paid” welfare locality.
- (2) The PHA must establish a minimum rent from \$0 to \$50.
- (3) The PHA must determine to whom utility reimbursement payments will be made.

Each of these decisions is discussed below.

TTP Formula [24 CFR 5.628]

A family’s total tenant payment (TTP) is the greatest of:

- 30 percent of the family’s monthly adjusted income
- 10 percent of the family’s monthly gross income
- The welfare rent (in as-paid jurisdictions only)
- The minimum rent (established by the PHA)

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Welfare Rent [24 CFR 5.628]

The third item considered when determining TTP is the welfare rent, which is defined at 24 CFR 5.628(a)(3) as follows: “If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family’s actual housing costs, is specifically designated by such agency to meet the family’s housing costs, the portion of those payments which is so designated [is considered the welfare rent].”

24 CFR 5.628 requires the PHA to enter a welfare rent as part of the TTP formula when welfare assistance in the jurisdiction is provided “as paid.” *As paid* refers to a system in which a separate amount within a family’s welfare grant is specifically designated for shelter and utilities and is adjusted based upon the family’s actual housing costs.



Decision Point: Does welfare rent apply in the PHA’s jurisdiction? (Model plan, p. 6-4945)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Welfare rent does not apply in this locality.



Option 2: If only some parts of the PHA’s jurisdiction have as-paid welfare systems, delete the sentence in the model plan and insert the following text:

Welfare rent applies only in the following areas of the PHA’s jurisdiction:

[Enter the appropriate areas.]

Note: The as-paid system also requires a special calculation of annual income. This requirement is discussed in section 6-I.J.

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Minimum Rent [24 CFR 5.630]

HUD requires the PHA to establish a minimum rent that may be from \$0 to \$50.

Minimum rent applies only when the PHA-established minimum rent is the highest amount in the TTP calculation. See below for an example of how the minimum rent applies.

| Example: Impact of Minimum Rent on TTP Calculations | |
|---|--|
| <p>A family receives \$3,000 annually, or \$250 monthly, in welfare assistance. The family has three children and no other deductions. The dependent deduction for the three children amounts to $\\$480 \times 3 = \\$1,440$, so the family's annual adjusted income is $\\$3,000 - \\$1,440 = \\$1,560$, making its monthly adjusted income $\\$1,560 \div 12 = \\130. The family's utility allowance is \$65. The welfare rent is not applicable.</p> | |
| With Minimum Rent of \$0 | With Minimum Rent of \$50 |
| TTP equals the greatest of: | TTP equals the greatest of: |
| \$39 Monthly adjusted income $\times 0.30$ | \$39 Monthly adjusted income $\times 0.30$ |
| \$25 Monthly gross income $\times 0.10$ | \$25 Monthly gross income $\times 0.10$ |
| N/A Welfare rent (N/A) | N/A Welfare rent (if applicable) |
| \$0 Minimum Rent | \$50 Minimum Rent |
| | |
| \$39 TTP | \$50 TTP |
| <u>-65 Utility allowance</u> | <u>-65 Utility allowance</u> |
| \$26 Utility reimbursement | \$15 Utility reimbursement |

HUD regulations provide for hardship exemptions from minimum rent. See section 6-III.B for a discussion of hardship policies.

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**Decision Point: What amount will the PHA establish as its minimum rent?
(Model Plan, p. 6-4945)**

Things to Consider

- Imposing a minimum rent greater than \$0 saves subsidy funds by reducing the required subsidy for some very low income families and addresses the concern that all families should pay something.
- But a minimum rent may place a hardship on some families who do not qualify for the hardship exemption. In addition, the higher the minimum rent, the more likely it is that the PHA will be processing requests for hardship exemptions.
- Since the PHA is required to establish a minimum rent, the model plan enables the PHA to establish \$0 as the minimum rent, rather than saying that the PHA has no minimum rent.
- The model plan assumes that the PHA has chosen \$0 as its minimum rent.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Change below to language to reflect the current Admin. language. No changes required.**

The minimum rent for this locality is \$50.



Option 2: Establish a minimum rent greater than \$0. Delete \$0 and enter the minimum rent established by your PHA.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When the PHA subsidy exceeds a family's rent to owner, the family is due a utility reimbursement. HUD permits the PHA to make the utility payment to the family or directly to the utility provider.



Decision Point: To whom will the PHA make utility reimbursement payments?
(Model plan, p. 6-5046)

Things to Consider

Three general policy options are available:

- Pay the utility reimbursement to the family in all cases. This is consistent with the overall HCV program philosophy of a private market relationship between the family and housing and utility providers.
- Pay the utility reimbursement to the provider in all cases. Providing the funds to the utility provider has the advantage of ensuring that the amount actually is used for utility costs.
- Pay the utility reimbursement to the provider at the request of the family.

The model plan follows the first option.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will make utility reimbursements to the family.



Option 2: Make utility reimbursements to the family except when requested. Delete the model plan language and insert the following:

Generally the PHA will pay any utility reimbursement to the family. However, if requested by the family, the PHA will pay the utility reimbursement directly to the utility provider.



Option 3: Make utility reimbursements to the provider. Delete the model plan language and insert the following:

The PHA will make any utility reimbursements directly to the utility provider.



Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. If the PHA decides to make quarterly payments, reimbursements that exceed \$15.00 per month must still be made on a monthly basis. Under this option, reimbursements of \$15.00 or less must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must state how any outstanding payments will be reconciled and whether payments will be made prospectively or retroactively. Prospective payments must be made prior to the start of each quarter; while retroactive payments must be made before the end of the each quarter.

If the PHA decides to make retroactive quarterly payments, the PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create an undue financial hardship.



Decision Point: Will the PHA issue quarterly utility reimbursements for families whose monthly reimbursement amount is \$15 or less? (Model plan, p. 6-5046)

Things to Consider

- The option for quarterly utility reimbursements is intended to reduce administrative burden by reducing the need for monthly check writing and mailing.
- The option may not represent an actual cost savings since PHAs exercising it are required to establish a hardship policy and many families may receive monthly payments anyway. PHAs would also have to account for partial quarters when there is a change in unit, program admission, recertification or termination of assistance as well as reconciling payments when families leave the program.
- The default policy, Option 1, calls for monthly issuance of utility reimbursements.
- If you wish to implement quarterly reimbursements, select Option 2. **You will also need to paste the accompanying hardship policy into the model plan.**
- The hardship policy states that the PHA will make retroactive payments. If the PHA will instead make prosp payments, the PHA must state whether the hardship exemption will take the form of monthly reimbursements or quarterly prospective payments.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will issue all utility reimbursements monthly.



Option 2: Make utility reimbursements on a quarterly basis when the family's monthly reimbursement amount is \$15.00 or less. Delete the model plan language and insert the following:

The PHA will issue monthly utility reimbursements for any amount in excess of \$15.00. The PHA will issue utility reimbursements retroactively prior to the end of each calendar year quarter for any amount that is \$15.00 or less per month.

Upon admission or recertification, if the family's utility reimbursement is \$15.00 or less per month, the PHA will inform the family that reimbursements will be made retroactively at the end of each calendar year quarter.

Prorated payments for a shorter period will be made when there is a change of unit, admission to the program, a recertification or termination of assistance.

If the family leaves the program with an outstanding credit for a utility reimbursement, the PHA will reconcile the credit with the family prior to the expiration of the lease.

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Decision Point: What requirements must be met in order for a family to receive monthly utility reimbursements due to hardship? (Model plan, p. 6-5046)

Things to Consider

- If you chose Option 1 above, you do not need a hardship policy. Do not paste this policy into your administrative plan.
- For ease of administration, the default policy states that families may receive monthly reimbursements if they certify that quarterly payments would create a financial hardship. The policy only applies to families receiving utility reimbursements, who are most likely already experiencing financial hardship.

*****This section does not apply to AHA*****



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Families who wish to receive monthly reimbursements must certify in writing that quarterly payments would create a financial hardship. If the family qualifies, the PHA will begin issuing monthly reimbursements at the end of the first calendar year quarter after the month the family makes the request. The hardship will continue as long as the family receives a utility reimbursement payment.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

The regulations governing financial hardship exemptions from minimum rent apply only to PHAs that establish a minimum rent greater than \$0 (see section 6-III.A). Hence the first decision point concerns this choice.



Decision Point: Did the PHA establish a minimum rent greater than \$0? (Model plan, p. 6-5147)



Option 1: No. Leave the first paragraph of the model plan in place, as shown below, and ignore the rest of the material in section 6-III.B. No changes to the model plan are needed.

*****Language added below to reflect current Admin. language. No changes to the model plan are needed. *****

PHA has established a minimum rent of \$50.



Option 2: No. Delete the words “described below” from the first paragraph of the model plan and all of the text in section 6-III.B of the model plan following the first paragraph.



Option 3: Yes. Delete the first paragraph of the model plan and continue.

Overview

The financial hardship exemption applies only to the payment of the minimum rent and not to a family’s inability to pay based upon other elements of the TTP formula. HUD identifies four types of hardship in the regulations and permits the PHA to add other hardship criteria.

When a family requests a financial hardship exemption, the steps required by the regulations depend on whether the PHA determines that the request is valid and whether the hardship will be temporary or long-term. HUD’s requirements and PHA decision points are described below.

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HUD-Defined Financial Hardship

HUD-defined hardships specified in 24 CFR 5.630(b) include:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

The administrative plan should clarify:

- What distinctions, if any, will be made in the treatment of families who have lost eligibility, been denied eligibility, or are awaiting an eligibility determination
- How the end of a hardship will be determined
- Whether families who have lost eligibility as a result of fraud will be permitted to receive a hardship exemption



Decision Point: How will the PHA implement HUD’s mandatory hardship criteria related to families who have lost or are awaiting federal, state, or local assistance? (Model plan, p. 6-5147)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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(2) The family would be evicted because it is unable to pay the minimum rent.

Decision Point: How will the PHA implement HUD’s mandatory hardship criteria related to families who may be evicted? (Model plan, p. 6-5147)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For a family to qualify under this provision, the cause of the potential eviction must be the family’s failure to pay rent to the owner or tenant-paid utilities.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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

No PHA policy decisions are required.

(4) A death has occurred in the family.

Decision Point: How will the PHA implement HUD’s mandatory hardship criteria related to a death in the family? (Model plan, p. 6-5248)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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).

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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

The PHA is permitted to establish additional hardship criteria.

Decision Point: Does the PHA wish to add any hardship criteria? (Model plan, p. 6-5248)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA has not established any additional hardship criteria.

Option 2: Add PHA-developed criteria. Edit or delete the model plan language and insert the PHA’s policy.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. To further explain this requirement, the model plan contains a chart that illustrates that the family's share is not automatically reduced to zero in hardship cases.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term. Since HUD does not define temporary or long term hardship, the PHA must decide what these terms mean. The model plan uses 90 days or less for its definition of temporary hardship because the PHA may not impose the minimum rent during the 90 day period beginning the month following the date of the family's request for a hardship exemption..

Decision Point: How will the PHA define temporary and long term hardships?
(Model plan, p. 6-[5348](#))

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

The regulation is silent on submission requirements and only requires that the PHA make its determination "promptly" [24 CFR 5.630(b)(2)(ii)(B)]. The model plan specifies family submission requirements and requires the PHA to make a decision within 30 days of the family's request.

Decision Point: What requirements will the PHA impose for the family's submission and how soon will the PHA make a decision? (Model plan, p. 6-[5348](#))

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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No Financial Hardship

The regulation requires that if there is no financial hardship, the PHA must reinstate the minimum rent and require the family to repay the amounts suspended on terms and conditions set by the PHA [24 CFR 5.630(b)(2)(iii)(A)].

Decision Point: How long will the PHA give a family to repay suspended rent if the family does not qualify for a hardship suspension or exemption? (Model plan, p. 6-5449)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship. The model plan permits the PHA and the family to agree on a repayment schedule in accordance with the PHA's policy.

Decision Point: How will the PHA require the family to repay amounts suspended for a temporary hardship? (Model plan, p. 6-5449)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Long-Term Hardship

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

The model plan specifies when the hardship ends. The policy addresses hardships based upon loss of income and hardship-related expenses.



Decision Point: How will the PHA determine when a long-term hardship has ended?
(Model plan, p. 6-5549)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

Changes in Payment Standards

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

Decreases

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is no longer required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].



Decision Point: If the PHA decreases their payment standards, will the reduction apply to families under HAP contract? (Model plan, p. 6-[5651](#))

Things to Consider

- Under previous regulations, when the PHA decreased its payment standards, the decreased payment standard was not applied to families under HAP contract until the family's second annual recertification.
- The regulations now require PHAs to apply reduced payment standards only to new admissions and families who move. The PHA is no longer required to apply decreased payment standards to families who remain under HAP contract.
- If the PHA adopts this policy, the PHA should consider funding availability and the number of households that the PHA will be able to serve since this policy will limit the number of families that are affected by the reduction.
- On the other hand, the PHA should also consider that reductions in the payment standard will affect the amount of subsidy a family will receive, and the amount of rent they will pay. Implementing this policy will protect participants from payment standard fluctuations based on local market conditions.
- Further, this option eliminates the administrative burden and potential audit risk to the PHA from tracking payment standard reductions for a two-year period for every family under HAP contract. Therefore, under Option 1, the PHA will not implement a payment standard decrease during the term of the HAP contract.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- If the PHA does decide to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount.
- If the PHA does apply reductions in the payment standard to families that remain under HAP contract, after two years the PHA has two options:
 - Apply the current amount in effect on the PHA's payment standard schedule, or
 - Reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule.
- In order to balance the PHA's desire to serve as many families as possible while considering the effect a decrease in subsidy may have on participants, Option 2 of the model policy allows the PHA to implement the full reduction in the payment standard at the family's second regular reexamination.
- This option reflects the current practice and provides limited protection for participants. Families may elect to move to a unit with a lower gross rent prior to the implementation of the reduced payment standard in order to avoid increases in total family share or family rent to owner.
- If the PHA would like to instead gradually implement a reduced payment standard, select Option 3. The PHA may continue reducing the payment standard for families under HAP contract, as long as subsequent reductions continue to result in an amount that meets or exceeds the normally applicable amount on the PHA's payment standard schedule.
- This policy may add to administrative tracking requirements, increase program audit risk, and be confusing for residents and owners. If the PHA wishes to adopt this policy, HUD has not provided any guidance on reasonable phase-in periods or dollar amounts. This option requires the PHA to determine a percentage or dollar amount limiting the annual payment standard decrease and to determine whether a time limit will be applied to the phase-in. If you adopt this policy, the model policy will need to be edited to include the phase-in period.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a PHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the PHA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.



Option 2: Delete model plan language and substitute language as shown below.

When the payment standard schedule is decreased during the term of the HAP contract, the PHA will determine the payment standard for families currently under a HAP contract as follows:

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

Step 2: The PHA will compare the payment standard from Step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

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

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- Option 3: Delete model plan language and substitute language as shown below.*

If a PHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the PHA will apply the reduced payment standard at the family's second regular reexamination following the reduction in the payment standard amount. The reduction in the payment standard will gradually be implemented. **[Insert PHA's phase-in policy here]**

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*



Decision Point: Will the PHA establish different policies for decreases in the payment standard by zip code area? (Model plan, p. 6-5651)

Things to Consider

- The PHA may establish different policies for decreases in the payment standard for designated areas within their jurisdiction (e.g., different zip code areas). These policies must apply to all families under HAP contract at the time of the effective date of the decrease within the designated area.
- The PHA may not limit or otherwise establish different protections or policies for certain families under HAP contract. For example, the PHA may not establish different policies for certain groups such as elderly or disabled voucher holders.
- Establishing different policies on reductions in payment standards by zip code area would aid the PHA in encouraging families to stay in housing in lower poverty areas by increasing the subsidy available in specific zip codes. If your PHA wishes to implement different policies by zip code area, select Option 2. The policy will need to be modified to include specific zip code areas.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will establish different policies for designated areas within the PHA's jurisdiction (e.g., different zip code areas). **[Identify policies by zip code area]**

These policies apply to all families under HAP contract at the time of the effective date of the decrease within that designated area.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

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

A PHA-established utility allowance schedule is used to determine family share and PHA subsidy.

Reasonable Accommodation

No PHA policy decisions are required.

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].



Decision Point: At which reexamination will revised utility allowances be applied, interim or annual? (Model plan, p. 6-[5852](#))

Things to Consider

- The regulations state that the PHA must use the current utility allowance schedule at reexamination. They do not specify as to annual or interim reexamination.
- The HCV Guidebook states that revised allowances will be used to calculate a family's gross rent at its next annual reexamination.
- The model plan adopts the safe harbor language from the HCV Guidebook and states that revised utility allowances will be applied at the first annual reexamination that is effective after the allowance is adopted.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

- A PHA could choose to use an updated schedule at interim reexamination. However, if this decision is made, changes in payment standards and utility allowances will be implemented at different times because the payment standard effective dates are regulatory.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin. updated to reflect language below.*****

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted [HCV GB, p. 18-9].



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

6-III.E. PRORATED ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

No PHA policy decisions are required.

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

(1) Added or subtracted any exhibits at the end of the chapter? Yes No.

(2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 6: Income and Subsidy Determinations

Instructions for Preparing Chapter 7: Verification

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to verification of all information that is used to establish the family's eligibility and level of assistance as follows:

Part I: General Verification Requirements

Part II: Verifying Family Information

Part III: Verifying Income and Assets

Part IV: Verifying Mandatory Deductions

The PHA must follow Notice PIH 2018-18, and this chapter summarizes those requirements and provides supplementary PHA policies

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 and 982.551, 24 CFR 5.230]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information. This requires the signing of release forms by family members. While it is required that PHAs use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must develop its own release forms to cover all other necessary information. Families must agree to sign all consent forms required by the PHA and HUD. There are penalties for failure to comply with this requirement.

No PHA policy decisions are required.

Instructions for Preparing Chapter 7: Verification

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2018-18]

This section in the model plan lists the HUD-established hierarchy of verification methods as described in Notice PIH 2018-18. Reference to this hierarchy is made throughout the remainder of the plan. In some cases HUD expects the PHA to use a combination of methods in order to obtain the most reliable information.

No PHA policy decisions are required.

Requirements for Acceptable Documents

When document review is necessary or desired, it is important to give PHA staff guidance on what is acceptable.

Instructions for Preparing Chapter 7: Verification



**Decision Point: What are the PHA's requirements for acceptable documents?
(Model plan, p. 7-2)**

Things to Consider

- In Notice PIH 2018-18, HUD states that documents submitted should be dated within 60 days of the reexamination or PHA request date.
- The condition of the document is vital to its integrity and usefulness. There should be no sign of tampering with the information. Documents are unacceptable if they have been damaged to the extent or written in a manner that the information is not useable. The format of the document is less important. Unless there is reason to believe the document is not authentic or that the information has been altered, print-outs from web pages should be acceptable.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the PHA request. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

- Decision Point: How will the PHA ensure that the family file is documented with information applicable to the income and rent calculation determinations? (Model plan, p. 7-3)**



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports



Decision Point: How will the PHA use income reports from the EIV system? (Model plan, p. 7-4)

Things to Consider

- Because EIV data is based on information from the PIC system, income information for new admissions is not available.
- HUD requires that the PHA must review both the EIV income report and the income validation tool (IVT) as part of the regular reexamination process.
 - The IVT is intended to assist the PHA in identifying unreported or under-reported income. The PHA must resolve discrepancies of \$2,400 or more.
- Since IVT discrepancies may result from terminated sources of income which were reported correctly, the PHA should eliminate "false-positive" discrepancies before taking any further steps. The model plan states that the income reports and IVT will be used for all annual reexaminations. Both reports must also be reviewed as part of the interim reexamination process.
- PHA policies should address what action(s) a PHA will take if the PHA determines through use of the EIV system that a family has concealed or under-reported income. Rather than repeating the policies here, the model plan language refers to Chapter 14, Program Integrity where these policies are already contained.

Instructions for Preparing Chapter 7: Verification

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 7: Verification

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

Decision Point: What actions will the PHA take when EIV identity verification fails? (Model plan, p. 7-5)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Upfront Income Verification Using Non-HUD Systems (Optional)

- Decision Point: What UIV sources will the PHA use? (Model plan, p. 7-5)**

Things to Consider

- PHAs must use HUD's EIV system in its entirety.
- Many PHAs are using UIV information in addition to HUD's EIV system. All sources of UIV income should be listed in this policy (e.g. TANF, Work Number, etc.). Informing applicants and participants of the use of UIV resources encourages more complete reporting.

CAUTION: You must insert or delete information here. The model plan does not contain language that can be adopted as-is.

- Option 1: Use the model plan language shown below. Insert additional sources of UIV as needed.*

The PHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

The Work Number

The Alabama Department of Human Resources Child Support Hotline

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 7: Verification

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2018-18]



Decision Point: What are the requirements for acceptable third-party written verification? (Model plan, p. 7-6)

Things to Consider

- Documents generated by a third party are now preferred over standardized third-party forms. The documents may be provided to the PHA by the family or by a third party.
- HUD defines written third-party verification as "an original or authentic document generated by a third party source." The PHA may only reject documents which are not original, appear to be forged, or are altered, mutilated, or illegible.
- While documents must generally be dated within 60 days of the PHA request or reexamination effective date, older documents are acceptable for confirming effective dates of income.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect the following language.*****

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will request require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Written Third-Party Verification Form

While HUD considers standardized third-party forms to be less reliable than the third-party written verification described above, this form of verification is mandatory when the family cannot provide acceptable documentation. Written third-party verification is also required when there appears to be unreported income and other forms of verification are not available.

Decision Point: When will the PHA obtain written third-party verification forms? (Model Plan, p. 7-7)

Things to Consider

- Notice PIH 2018-18 states that this form of verification is mandatory when neither upfront verification nor written third-party verification are available.
- The PHA is also required to obtain the standardized forms as needed to resolve discrepancies identified as part of the annual or interim reexamination process.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Oral Third-Party Verification [Notice PIH 2018-18]

Oral third-party verification is mandatory when neither form of written third-party verification is available. This method is typically used when an independent source fails to respond to a PHA request for written documentation.

Decision Point: How will the PHA utilize oral third-party verifications? (Model plan, p. 7-7)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

When Third-Party Information is Not Required [Notice PIH 2018-18]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets or expenses when these items would have a minimal impact on the family's total tenant payment.



Decision Point: When will the PHA make exceptions to the requirement for third-party verification? (Model plan, p. 7-8)

Things to Consider

- Under HUD's current verification hierarchy, a family certification or declaration is the only non-third-party verification source. Therefore, when the PHA bypasses the third-party requirement, a self-certification is accepted.
- For example, if a family is unable to provide original bank statements, the PHA could elect to request a written third-party verification form from the bank. Alternatively, the PHA could determine that this method would not be cost-effective, in which case a self-certification would be accepted.
- The cost of verification cannot be passed on to the family.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Primary Documents

No PHA policy decisions are required.

Instructions for Preparing Chapter 7: Verification

Imputed Assets

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

- Decision Point: How will the PHA verify the value of imputed assets? (Model plan, p. 7-8)**

Things to Consider:

- It could be difficult or impossible to obtain third-party verification of assets which the family no longer owns. The default policy allows the PHA to accept the family's certification in these situations.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

- Decision Point: Will the PHA accept family self-certification of the value and expected income of assets totaling \$5,000 or less? (Model plan, p. 7-8)**

Things to Consider:

- HUD has acknowledged that the overall impact of asset income on a PHA's subsidy need is negligible. However, PHAs may expend considerable time and resources on the process of verifying asset value and asset income. For example, it is administratively burdensome to obtain third-party verification of low-balance checking accounts which do not earn interest.
- To reduce administrative burden, HUD permits PHAs to accept family self-certification, including certification on an annual reexamination form, of asset value and asset income when the value of total family assets is \$5,000 or less. .
- Third-party verification must be obtained during the intake process and every three years after program admission.

Instructions for Preparing Chapter 7: Verification

- Option 1 provides that the PHA will accept self-certification from the family when applicable.
- Select Option 2 if the PHA wishes to use third-party verification to verify asset value and asset income in all circumstances.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.



Option 2: Delete the language in the model plan and insert the language below.

The PHA will obtain third-party verification of all assets regardless of the amount.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-I.E. SELF-CERTIFICATION

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit, as well as when they do and third-party verification is not available. The PHA needs to provide staff guidance on the conditions for using self-certification.



Decision Point: What is the PHA's policy on self-certifications? (Model plan, p. 7-9)

Things to Consider:

- Self-certification is the least-preferred method of verification. It is to be used as a last resort when other verification sources are not available.
- The family's file must be thoroughly documented in order to explain why this verification method was used.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

Verification of legal identity is not required by regulations, but is recommended by HUD, notably in Notice PIH 2001-15 and in its appendix, the Improving Income Integrity Guidance Booklet. Since verification of legal identity is a PHA policy issue, the PHA can determine what forms of documentation are acceptable.



Decision Point: What is the PHA's policy on verification of legal identity? (Model plan, p. 7-11)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect all language below.*****

The PHA will require families to furnish verification of legal identity for each household member.

| Verification of Legal Identity for Adults | Verification of Legal Identity for Children |
|--|---|
| Certificate of birth, naturalization papers | Certificate of birth |
| Church issued baptismal certificate | Adoption papers |
| Current, valid driver's license or Department of Motor Vehicles identification card | Custody agreement |
| U.S. military discharge (DD 214) | Health and Human Services ID |
| Current U.S. passport | Certified school records |
| Current government employer identification card with picture | |

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

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed in the presence of a PHA representative or PHA notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing him or herself to be a participant.

Instructions for Preparing Chapter 7: Verification



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2018-24]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants as of January 31, 2010, who have either previously disclosed social security numbers HUD has determined to be valid, or who are 62 years of age or older and had not previously disclosed an SSN [24 CFR 5.216(g) and Notice PIH 2018-24].

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.



Decision Point: If the PHA rejects documentation of an SSN, how long will the applicant or participant have to obtain and submit acceptable documentation? (Model plan, p. 7-12)

Things to Consider

- HUD does not prescribe the exact amount of time in which an applicant or participant must submit acceptable documentation for social security numbers after the PHA has rejected documentation. This timeframe will largely depend on your PHA's other policies. However, because the timeframe of 90 days is specified in the regulations with regards to submitting documentation in similar circumstances, the default policy uses the 90-day timeframe in this context as well.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification



Decision Point: Under what circumstances would the PHA grant an additional 90-day compliance period to an SRO individual? (Model Plan, p. 7-12)

Things to Consider

- 24 CFR 5.216(h)(2) states that the PHA must grant the applicant an additional 90-day period to comply with the SSN disclosure and documentation requirement, if the PHA determines that the reason individual was unable to comply was due to circumstances that could not have reasonably been foreseen and were outside of the family's control.
- Notice PIH 2018-24 gives examples of such circumstances with regards to addition of a new household member. These include, but are not limited to delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, etc. The default policy both lists specific examples and leaves room for other circumstances to be considered.
- Your PHA may want to consider other PHA policies where time extensions are granted for circumstances beyond the family's control.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification



Decision Point: Under what circumstances would the PHA grant an additional 90-day compliance period for a child added to the household within 6 months prior to the date of initial voucher issuance? (Model Plan, p. 7-13)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: Under what circumstances would the PHA grant an additional 90-day compliance period when adding a new household member under the age of 6 who has not been assigned an SSN? (Model Plan, p. 7-13)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: How will the PHA verify each disclosed SSN? (Model Plan, p. 7-13)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification



Decision Point: Will the PHA destroy copies of documentation accepted as evidence of social security numbers? (Model Plan, p. 7-14)

Things to Consider

- Notice PIH 2018-24 states that once the verification status is classified as “verified,” the PHA may remove and destroy copies of documentation of evidence of social security numbers.
- The notice encourages that PHAs minimize the number of records that display an individual’s full nine-digit SSN. The retention of the EIV report in the individual’s file is adequate documentation. These methods help to minimize the risk of exposing individuals’ SSNs.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Once an individual’s status is classified as “verified” in HUD’s EIV system, the PHA will remove and destroy copies of documentation accepted as evidence of social security numbers.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 7: Verification

7-II.C. DOCUMENTATION OF AGE

Regulations at 24 CFR 982.516(a)(2)(iv) state that in addition to income, assets, and deductions, the PHA must verify “other factors that affect the determination of adjusted income.” Such factors include spousal relationships, age, and citizenship status, among others. Age is especially important for determination of income and deductions when someone in the family is under 18 or is age 62 or older. Generally, a birth certificate or other official record of birth is the preferred form of age verification, and for elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable. The PHA needs to provide guidance to staff when these types of verification are not available.

Decision Point: What will the PHA accept as verification of age when birth certificates or evidence of social security retirement benefits are not available? (Model plan, p. 7-14)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-II.D. FAMILY RELATIONSHIPS

The relationship of each household member to the head of household may affect the determination of adjusted income and must therefore be verified [24 CFR 982.516(a)(2)(iv)]. Definitions of the primary household relationships are provided in Chapter 3. The PHA must give guidance to staff regarding the extent to which these relationships will be verified.

Decision Point: How, and to what extent, will the PHA verify family relationships? (Model plan, p. 7-14)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Marriage

Marital status could affect the determination of total or adjusted income. Examples would be when the person designated as spouse of the head is working and under age 18, or if the head is not elderly or disabled but the person designated as spouse of the head is. It could also affect the family's eligibility for the program, depending on the PHA's definition of family. PHA staff needs guidance on what to do if some information causes staff to doubt the validity of the marital relationship.

Decision Point: How will the PHA verify marital status? (Model plan, p. 7-14)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Separation or Divorce

There may be situations where the PHA would need to verify a separation or divorce beyond the certification of the head of household. In these situations PHA staff needs guidance on what to do if some information causes staff to doubt the self-certification.

Decision Point: How will the PHA verify a separation or divorce? (Model plan, p. 7-15)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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

If no court document is available, documentation from a community-based agency will be accepted.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Absence of Adult Member

When an adult family member is reported as permanently absent, PHA staff needs guidance on how to verify the absence is permanent.

Decision Point: How will the PHA verify the absence of an adult family member? (Model plan, p. 7-15)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Foster Children and Foster Adults

When a family claims foster children or adults, the PHA needs to verify their status to properly calculate the family's income and deductions. Guidance needs to be provided as to how the status of foster children and adults will be verified.

Decision Point: How will the PHA verify the absence of an adult family member?
(Model plan, p. 7-15)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

7-II.E. VERIFICATION OF STUDENT STATUS

The status of a student family member could affect the income or deductions for a family. Therefore, guidance needs to be provided as to when student status is to be verified.

General Requirements

Decision Point: Under what circumstances will the PHA verify student status?
(Model plan, p. 7-16)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports child care expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education*.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.



Decision Point: How will the PHA verify that a student is subject to the eligibility restrictions in 24 CFR 5.612? (Model plan, p. 7-16)

Things to Consider

- The model plan language clearly identifies the factors that must be verified in order for the PHA to determine whether a particular student is exempt from the eligibility restrictions contained in 24 CFR 5.612.
- The model plan language refers to other policies in the administrative plan. Referencing these sections reduces the need to duplicate those policies here.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In accordance with the verification hierarchy described in Section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Independent Student



Decision Point: How will the PHA verify that a student is independent from his/her parents for purposes of determining whether the parent's income is relevant in determining the student's eligibility? (Model plan, p. 7-17)

Things to Consider

- The criteria for determining independence from parents is contained in Section 3-II.E. If changes are made to the criteria in Chapter 3, the verification requirements in this section will need to be revised accordingly.
- The verification criteria included in the model plan follows the recommended language contained in the September 21, 2016, *Federal Register* notice, "Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Additional Supplementary Guidance."



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing the 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* (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the PHA determines that the student is a *vulnerable youth* (see section 3-II.E)



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income.

Family Members Receiving SSA Disability Benefits



Decision Point: How will the PHA verify the disability status of family members who are receiving SSA Disability benefits? (Model plan, p. 7-18)

Things to Consider

- Notice PIH 2004-18, issued on September 17, 2004, describes required procedures for verifying SS/SSI benefits of applicants and participants. If a disabled family member is receiving SSA disability benefits, verifying receipt of these payments serves as adequate verification of the family member's disability. Therefore this policy reflects the procedures required by, and recommended in, the Notice.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the PHA 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 PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Family Members Not Receiving SSA Disability Benefits



Decision Point: How will the PHA verify the disability status of family members who are not receiving SSA Disability benefits? (Model plan, p. 7-18)

Things to Consider

- In cases where a family is not receiving SSA Disability benefits, the PHA would follow its normal verification process and obtain third-party verification. This policy clarifies that a knowledgeable professional must provide third-party verification that a family member meets the HUD definition of disability.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

No PHA policy decisions are required.

U.S. Citizens and Nationals

HUD requires a declaration be signed by each family member (or by a guardian for minors) who claims to be a U.S. citizen or national. However, HUD states that a PHA may request further verification of the family member's status. Guidance must be provided as to when and how such verification will be required by the PHA.



Decision Point: How and when will the PHA require additional verification of U.S. citizen or national status? (Model plan, p. 7-19)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Eligible Immigrants

No PHA policy decisions are required.

Instructions for Preparing Chapter 7: Verification

7-II.H. VERIFICATION OF PREFERENCE STATUS

PHAs determine their own local waiting list preferences.



Decision Point: If the PHA offers waiting list preferences how will it verify preferences? (Model plan, p. 7-20)

Things to Consider

- The model plan includes a preference for families that have been terminated from the PHA's HCV program due to insufficient program funding. The PHA will have the necessary documentation to verify this preference in its own files. The model plan language reflects this.
- The model policy also includes a preference for families that include a family member who is a victim of domestic violence, dating violence, sexual assault, or stalking, as defined in Section 4-III.C. As the policy language specifies, the PHA will follow documentation requirements outlined in Section 16-IX.D. to verify this preference.
- If the PHA offers other local preferences, the PHA must also determine its methods of verification for those preferences (tenant provided documents, third party written, etc.). The PHA could extend the verification standards found in 24 CFR 982.516(a)(2) to preferences, but this is not mandatory.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, or stalking as described in Section 4-III.C. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-IX.D.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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PART III: VERIFYING INCOME AND ASSETS

7-III.A. EARNED INCOME

Tips

The standard verification policies found in Part I of this chapter apply to the verification of earned income. However, tip income poses a unique situation in that it is difficult to anticipate and third-party verification is not always available. Therefore, tip income requires clarification in PHA policy.



Decision Point: What additional verification policies will the PHA require if a family reports income from tips? (Model plan, p. 7-21)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Tips

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Wages



Decision Point: How will the PHA verify wages? (Model plan, p. 7-21)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Wages

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

As with tip income, income from a business or from self-employment is often difficult to verify through a third party. Tax-related documents may be the best source of information; however, this is not anticipated income. Sometimes self-certification may be required. It is an even greater challenge if the business is new, since there will be no historical data to use as a basis for anticipating income. The PHA needs to have policies specific to business and self-employment income to assist staff in understanding what verification methods are to be used.



Decision Point: What are the PHA's verification policies for business and self-employment income? (Model plan, p. 7-21)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

The standard verification policies found in Part I of this chapter apply to the verification of periodic payments and payments in lieu of earnings. Social security and SSI income are to be verified by HUD's EIV System when possible.



Decision Point: What additional verification policies will the PHA require for social security and SSI incomes? (Model plan, p. 7-22)

Things to Consider

- Notice PIH 2010-3 describes required procedures for verifying SS/SSI benefits of applicants and participants. These procedures require PHAs to obtain benefit information of participants from HUD's EIV system.
- The notice also states that for all applicants, and for participants who dispute the EIV-reported benefit amount, or whose information is not available in EIV, the PHA should request a current benefit verification letter (dated within the past 60 days).
- Applicants and participants may request a benefit verification letter on the SSA's Web site, or by calling the SSA's toll free number. However, the SSA strongly encourages use of the Web site for such purposes rather than the toll free number.

Instructions for Preparing Chapter 7: Verification



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will help the participant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

7-III.D. ALIMONY OR CHILD SUPPORT

For alimony and child support, there could be two different scenarios; the family receives the court awarded or agreement amount, or the family does not receive the court awarded or agreement amount. These scenarios can be handled differently.



Decision Point: What are the PHA's policies on verification of income from alimony or child support? (Model plan, p. 7-23)

Things to Consider

- If the family is receiving irregular or no payments, did they make all reasonable efforts to collect the amounts due?
- The PHA cannot require that the family undertake enforcement action but could count the full amount of the court order or agreement if they do not make an effort to collect the full amount.

Instructions for Preparing Chapter 7: Verification



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The methods the PHA will use to verify alimony and child support payments differ 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:

Copy of the receipts and/or payment stubs for the 60 days prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

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

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. Since the PHA needs to verify only those certifications that warrant documentation, guidance must be given to staff on what the PHA will verify [HCV GB, p. 5-28].

Decision Point: Under what circumstances will the PHA verify the value of assets disposed of for less than fair market value? (Model plan, p. 7-24)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

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

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.F. NET INCOME FROM RENTAL PROPERTY

Families who receive an income from rental property must provide adequate information for the PHA to anticipate net rental income. The PHA must provide guidance on what is to be reported and what is considered sufficient documentation of the income reported.



Decision Point: What are the PHA's policies on verification of net income from rental property? (Model plan, p. 7-24)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.G. RETIREMENT ACCOUNTS

The standard verification policies found in Part I of this chapter apply to the verification of retirement accounts. The PHA must provide guidance on how retirement accounts will be verified if third-party verification is not available.



Decision Point: What are the PHA's policies on verification of retirement accounts when third-party verification is not available? (Model plan, p. 7-25)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The type of original document that will be accepted depends upon the family member's retirement status.

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

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.H. INCOME FROM EXCLUDED SOURCES

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).



Decision Point: What is the PHA's policy on verification of income exclusions?
(Model plan, p. 7-26)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

7-III.I. ZERO ANNUAL INCOME STATUS



Decision Point: What is the PHA's policy on checking potential income sources for families claiming to have zero income? (Model plan, p. 7-26)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy

Instructions for Preparing Chapter 7: Verification

7-III.J. STUDENT FINANCIAL ASSISTANCE [~~Notice PIH 2015-21 24 CFR 5.609(b)(9) and FR 4/10/06~~]



Decision Point: How will the PHA verify the amount of student financial assistance that must be included in the calculation of annual income? (Model plan, p. 7-27)

Things to Consider

- To properly calculate the annual income of a student enrolled in an institution of higher education, the PHA must verify the amount of student financial assistance the student is receiving, as well as the source of the income.
- Because amounts received for tuition are to be excluded, PHAs must also verify this amount.
- Much of the information the PHA needs to verify (amounts received under the Higher Education Act of 1965, amounts received from the institution of higher education, and the amount of a student's tuition) must be provided by the educational institution a student is attending.
- To verify amounts from private sources, the PHA will request that the family provide third-party written verification.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the PHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the PHA will request written verification of the student's tuition, fees, and other required charges ~~amount~~.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS



Decision Point: How will the PHA verify the income of a student's parents when this information is required to determine the student's eligibility? (Model plan, p. 7-28)

Things to Consider

- The model plan language incorporates the language recommended in the April 10, 2006, *Federal Register*.
- To better ensure the integrity of the information, the model plan language clarifies that the PHA will request the information directly from the parents and ask the parents to return it directly to the PHA.
- For administrative ease and consistency, the model plan language gives the parents 10 business days to submit the information to the PHA. This is the standard timeframe used throughout much of the plan. Because many parents may be out of state, the model plan clarifies that in this context, the date of submission will be the date of postmark.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA is required to determine the income eligibility of a student's parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The PHA 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 PHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the PHA.

The PHA 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 (IRS) 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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

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PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

No PHA policy decisions are required.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Amount of Expense

The policies related to medical expenses are found in Chapter 6 (6-II.D). The standard verification policies found in Part I of this chapter apply to the verification of medical expenses.



Decision Point: How will the PHA verify the dollar amounts of medical expenses?
(Model plan, p. 7-30)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Eligible Household

No PHA policy decisions are required.

Qualified Expenses

No PHA policy decisions are required.

Unreimbursed Expenses

The PHA needs to clarify how it will determine that medical expenses will not be reimbursed by other sources.

Decision Point: How will the PHA determine that medical expenses will not be reimbursed by other sources? (Model plan, p. 7-31)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Expenses Incurred in Past Years

Families can claim as medical expenses the anticipated costs related to on-going payments of medical bills incurred in past years, provided that the same expenses have not been deducted in prior years. The PHA must provide guidance on how these expenses will be verified.

Decision Point: How will the PHA verify anticipated medical expenses related to on-going payments of medical bills incurred in past years? (Model plan, p. 7-31)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Amount of Expense

The deduction for disability assistance expenses covers both attendant care and auxiliary apparatus. Because one is a care provider and the other is generally a piece of equipment or the servicing of that equipment, the policy for verifying amounts for attendant care will be somewhat different than for auxiliary apparatus. The PHA needs to provide guidance to staff as to how verification of each is to be handled. The standard verification policies found in Part I of this chapter apply to the verification of disability assistance expenses.

Attendant Care



Decision Point: How will the PHA verify the dollar amounts for disability assistance expenses for attendant care? (Model plan, p. 7-32)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will accept written third-party documents provided by the family.

If family-provided documents are not available, the PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

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

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Auxiliary Apparatus

Decision Point: How will the PHA verify the dollar amounts for disability assistance expenses for auxiliary apparatus? (Model plan, p. 7-32)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Family Member is a Person with Disabilities

No PHA policy decisions are required.

Instructions for Preparing Chapter 7: Verification

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, to work. The person enabled to work could be the person with disabilities but does not have to be. The expense could enable more than one person to work. The PHA needs to provide guidance as to how it is verified that the person or persons who work are enabled to do so by the disability assistance expense.

Decision Point: How will the PHA verify that the disability assistance expense enables someone to work? (Model plan, p. 7-33)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA 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, or members, to work. (See 6-II.E.) This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Unreimbursed Expenses

The PHA needs to clarify how it will determine that disability assistance expenses will not be reimbursed by other sources.

Decision Point: How will the PHA determine that disability assistance expenses will not be reimbursed by other sources? (Model plan, p. 7-33)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

7-IV.D. CHILD CARE EXPENSES

Eligible Child

No PHA policy decisions are required.

Unreimbursed Expense

The PHA needs to clarify how it will determine that child care expenses will not be reimbursed by other sources.



Decision Point: How will the PHA determine that child care expenses will not be reimbursed by other sources? (Model plan, p. 7-34)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Pursuing an Eligible Activity

The PHA must verify that the child care enables a family member or members to seek work, pursue education, or be gainfully employed. The PHA needs to provide staff guidance on what information needs to be gathered, specific to the eligible activity claimed.



Decision Point: What information needs to be gathered and verified to determine that the child care enables someone to pursue an eligible activity? (Model plan, p. 7-35)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Information to be Gathered

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

Seeking Work

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

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

Furthering Education

The PHA will ask 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.

Gainful Employment

The PHA 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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Allowable Type of Child Care

Notice PIH 2004-01, Verification Guidance makes it clear that PHAs cannot choose the type of child care provided [VG, p. 26]. PHAs must provide clear guidance on what activities will not be covered (such as housekeeping services) and what to do if payments to a provider cover the care of other children who are not eligible for child care (such as children age 13 and over). See Chapter 6 (6-II.F.) of this plan for discussion of types of allowable child care.

Decision Point: How will the PHA verify that child care expenses cover an allowable type of child care? (Model plan, p. 7-36)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

Reasonableness of Expenses

Since only reasonable child care expenses can be deducted, the PHA must have a system for comparing what is determined as reasonable with the family's actual child care expenses. The PHA must further determine what it will do under various circumstances when actual child care costs exceed what is determined by the PHA to be reasonable.



Decision Point: How will the PHA verify that child care expenses are reasonable?
(Model plan, p. 7-36)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 7: Verification

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
(2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
 Yes. Edits only. Edit and insert PHA language as appropriate.
 Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
 Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

INTRODUCTION

These instructions explain the contents of Chapter 8 of the model plan and discuss the policies and decisions the PHA must make. The chapter is organized as follows:

Part I. Physical Standards. This part explains HUD's HQS and includes any additional PHA-established standards.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be followed when units do not meet HQS.

Part III. Rent Reasonableness Determinations. Part III discusses the policies and factors the PHA will use to make the rent reasonableness determination.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15.

PART I. PHYSICAL STANDARDS

8.I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

This paragraph lists HUD's 13 acceptability standards and references two exhibits. Exhibit 8-1 provides a summary of the standards, and Exhibit 8-2 identifies areas of tenant preference. It also lists the sources of additional information as follows:

- Housing Choice Voucher Handbook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2002-1 *Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.*

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

Modifications to Provide Accessibility [24 CFR 100.203; Notice 2002-1]

This paragraph of the plan highlights requirements of the Fair Housing Act of 1988. It explains that the owner must permit a family that contains a person with a disability to make reasonable modifications to the unit at the family's expense. If the owner is going to require an escrow account or otherwise require the family to restore the unit when the family moves out, HUD requires the owner and family to have a restoration agreement that is separate from the security deposit.



Decision Point: Does the PHA wish to review the terms of any restoration agreement to which the family agrees? (Model plan, p. 8-3)

Things to Consider

- The PHA is not required to review the restoration agreement and doing so represents an additional workload for staff. Even so, reviewing the document is recommended as part of the PHA's program integrity activities to ensure that the owner has presented a separate agreement and that no illegal side payments are included.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.



Option 2: Delete the model plan language.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

Thermal Environment [HCV GB p.10-7]

HUD requires the PHA to define a “healthy living environment” for the local climate.



Decision Point: What standards will the PHA use to define healthy living environment? (Model plan, p. 8-4)

Things to Consider

- The model plan language uses common industry standards.
- You should determine whether the local housing code imposes other standards. If so, replace or edit the model plan language with those from the applicable local code.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The heating system in any HCV-assisted unit must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.



Option 2: Replace the standards in the model plan with the following:

For interior heating temperature: replace 65 degrees with _____



Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

Clarifications of HUD Requirements



Decision Point: What clarifications of HUD HQS will the PHA include in its administrative plan? [HUD-approval not required] (Model plan, p. 8-5)

Things to Consider

- The model plan includes a list of clarifications that are commonly used by PHAs. Any of these clarifications may be deleted or edited.
- The PHA must enforce HQS but is not required to enforce local code requirements in conjunction with the HCV program. Code enforcement is generally the responsibility of another governmental entity.
- HUD permits the PHA to enforce a standard higher than HQS if doing so is not likely to adversely affect the health or safety of participant families or severely restrict housing choice.
- HUD approval is required if more stringent standards are imposed. HUD approval is not required if the PHA additions are clarifications of HUD's acceptability criteria or performance standards.
- The model plan includes a number of recommended clarifications to HQS. Each of these is considered an elaboration or explanation of a HUD requirement that does not require HUD approval. You may wish to consult with your local Field Office to confirm that they agree with this analysis.
- If you have more stringent standards that have been approved by HUD, they should be labeled as such and added to the end of this section.



Option 1: Keep all items found in the model plan. Use the model plan language shown below. No changes to the model plan are needed.

As permitted by HUD, the PHA has adopted the following specific requirements that elaborate on HUD standards:

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition (applies only if screens are present).

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

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

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

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

Sinks

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

All sinks must have functioning stoppers.

Toilets

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

Security

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

Option 2: Make changes to the model plan language. Decide whether you want to retain, delete, or edit each of the clarifications included in the model plan. Make your edits directly on the model plan.

Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

8.I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the PHA to define life-threatening conditions.



Decision Point: How will the PHA define life-threatening conditions that must be corrected within 24 hours? (Model plan, p. 8-6)

Things to Consider

- Items you identify as life-threatening conditions must be corrected by the owner or the family (depending upon who is responsible) within 24 hours. The model plan includes a recommended list of life-threatening conditions.
- You should determine whether the local housing code imposes any applicable standards. If so, you should consider replacing or editing the model plan language to conform to those requirements.
- In the *Federal Register* Notice dated 1/18/17, HUD identifies certain life-threatening conditions under HQS. While PHAs are only required to adopt these specific conditions outlined in the notice if the PHA also adopts a policy to approve assisted tenancy of families when their units fail HQS due to non-life-threatening deficiencies, the model administrative plan adopts this language as the guide for the definition of life-threatening conditions in all cases.
- Note, that if your PHA does not adopt this policy, your PHA is not required to adopt the list of deficiencies listed in *Federal Register* Notice 1/18/17.
- If your PHA does adopt such a policy in Section 8.II.B., Initial HQS Inspection, you must apply the list of life-threatening conditions to all HQS inspections the PHA conducts, not just initial inspections.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The following are considered life-threatening conditions:

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

A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

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

A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed

A light fixture is hanging by its wires

A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit

A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed

An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses

A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections

Any nicks, abrasions, or fraying of the insulation that exposes conducting wire

Exposed bare wires or electrical connections

Any condition that results in openings in electrical panels or electrical control device enclosures

Water leaking or ponding near any electrical device

Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

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

Any components that affect the function of the fire escape are missing or damaged

Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency

The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency

Absence of a functioning toilet in the unit

Inoperable or missing smoke detectors

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Missing or inoperable carbon monoxide detector

Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)

Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting

The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases

A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside

A fuel-fired space heater is not properly vented or lacks available combustion air

A non-vented space heater is present

Safety devices on a fuel-fired space heater are missing or damaged

The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas

Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

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

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

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

- Option 2: Make changes to the model plan language. Decide whether you want to retain, delete, or edit each of the activities included in the model plan. Make your edits directly on the model plan, and add any additional standards.*
- Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

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

This section lists HQS deficiencies that are considered the responsibility of the family and those that are considered the responsibility of the owner.

No policy decisions are required.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

This section describes what a PHA and owner must do if a child of less than six years of age, living in an HCV assisted unit is identified as having an elevated blood lead level.

No policy decisions are required.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

This section describes what must happen if the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

No policy decisions are required.

**Instructions for Preparing Chapter 8: Housing Quality Standards
and Rent Reasonableness Determinations**

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PART II. THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Note: This overview section is intended to cover general policies that apply to all types of inspections. Using the overview makes it unnecessary to repeat the information under each type of inspection. Policies that do not apply to all types of inspections are found later in this chapter under the appropriate inspection type.

Types of Inspections

This paragraph lists the types of inspections the PHA will conduct. **No policy decisions are required.**

Inspection of PHA-owned Units [24 CFR 982.352(b)]

This paragraph explains the requirement for an independent entity to perform HQS inspections for PHA-owned units. **No policy decisions are required.**

Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.



Decision Point: Will the PHA impose a reinspection fee for owners? (Model plan, p. 8-12)

Things to Consider

- The regulation at 24 CFR 982.405(e) provides that PHAs may charge the owner a “reasonable fee” for some types of failed reinspections. The intent of the regulation is to allow PHAs to offset their costs for reinspections when repairs have not been completed.
- PHAs should consider whether imposition of a reinspection fee might discourage owner participation in the program, or otherwise reduce the opportunity of assisted families to lease a unit in a lower-poverty area.
- Imposing a fee would also require the PHA to develop procedures for owner notification, billing, and collections.
- For these reasons, and to avoid conflicts between owners and the PHA, Option 1 states that the PHA will not charge a reinspection fee.

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- If you wish to establish a reinspection fee, please select Option 2.
- Option 2 calls for a fee of \$25.00. While you may revise the amount of the fee, keep in mind that the fee must be reasonable. Notice PIH 2016-05 states that a fee will be considered reasonable if it reflects local practices for the establishment of similar fees. The PHA must also ensure that such a fee is not prohibited by state or local law.
- Option 2 also permits the PHA to waive the fee if repairs for non-life threatening items were not completed due to factors beyond the owner's control. Examples would include situations in which the family or weather conditions delayed completion of repairs.
- In the case of PHA-owned units, if the PHA adopts Option 2, for any inspection performed by a HUD-approved entity other than the PHA, the details of any reinspection fee must be spelled out in the contractual arrangement between the PHA and the entity as well.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Current Admin. language added below for the purpose of this form. No changes to the Admin. are needed.*****

PHA will charge a \$25 fee for failed reinspections.



Option 2: Replace the standards in the model plan with the following:

The PHA will impose a \$25.00 reinspection fee to the owner for the first reinspection when:

The owner reports that an HQS deficiency has been repaired, but reinspection reveals that the deficiency has not been repaired; or

When the time for repairs has elapsed and the deficiency has not been repaired.

The PHA may waive the fee if repairs for non-life threatening items were delayed due to circumstances beyond the owner's control.



Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice [24 CFR 982.551(d)].



Decision Point: How will the PHA define "reasonable times after reasonable notice"? (Model plan, p. 8-12)

Things to Consider

- The model plan assumes inspections will take place between the hours of 8:00 a.m. and 7:00 p.m. on business days only and that, except for emergencies, families will receive at least 48 hours notice.
- You should check local tenant-landlord ordinances or other legislation that might affect the notice required.
- If your policy is different for different types of inspections, you should cover this subject under each type of inspection rather than in this introductory section.
- It is likely that for some types of inspections your staff will schedule the inspections well in advance of 48 hours. Remember, just because the plan says the minimum notice is 48 hours doesn't mean that the PHA can't give more notice.
- Because the results of any inspection may result in work for the landlord, it is good practice to notify both the owner and family of all inspections. If the PHA does not want to notify the owner of all inspections, use Option 2 below.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Current Admin. language added below, for the purpose of this form. No changes to the Admin. plan.*****

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on Monday-Friday, except PHA owed units. . PHA owed units inspections will be conducted on Monday-Thursday. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

- Option 2: Delete model plan language and substitute language as shown below.*

The family will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

- Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

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Owner and Family Inspection Attendance

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



Decision Point: Who must be present at the time of the HQS inspection? (Model plan, p. 8-12)

Things to Consider

- The inspection often is an opportunity to help explain or clarify program requirements and therefore attendance by the head or spouse and the owner/owner representative would be desirable. But, increasing the number of people who must attend makes scheduling more difficult for PHA staff.
- Some PHAs inspect units if the owner or owner representative is present, even if an adult family member is not present.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When a family occupies the unit at the time of inspection an **authorized adult family member** must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.



Option 2: Edit the model plan language by substituting any of the following:

An adult family member must be present for all inspections.

An adult family member AND an owner's representative must be present for the inspection.

The PHA will conduct the inspection if either an adult family member or an owner's representative is present.



Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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

Initial Inspections [FR Notice 1/18/17]

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



Decision Point: Will the PHA approve assisted tenancy and start HAP if the unit fails HQS inspection for non-life-threatening conditions? (Model plan, p. 8-13)

Things to Consider

- If the PHA makes payments under this exception, the PHA must withhold payments if the non-life-threatening deficiencies are not remedied within no more than 30 days of the PHA's notice to the owner.
- Further, the administrative plan must include HUD's definition of *non-life-threatening conditions* and list the specific conditions listed in *Federal Register* Notice 1/18/17 as *life-threatening* prior to implementation of this policy. This list of conditions must be applied to all HQS inspections conducted by the PHA, not just initial inspections.
- If the PHA adopts this policy, it must notify owners and families, as applicable, of the new procedures and timeline for payments.
- Further, if the initial inspection identifies more than one non-life-threatening deficiency, the PHA must provide the family a list of deficiencies and offer the family the opportunity to decline to enter into an assisted lease without losing their voucher.
- Further, the PHA must notify the family that if the owner fails to correct the non-life-threatening deficiencies within the PHA-specified time period, the PHA will terminate the HAP contract, which in turn terminates the assisted lease, and the family will have to move to another unit in order to receive assistance.
- If non-life-threatening conditions are not corrected within 30 days of the PHA notice to the owner, the PHA must withhold HAP until the unit complies.
- The PHA may establish a policy regarding the maximum amount of time it will withhold payments before abating payments or terminating the HAP contract for owner non-compliance. Under no circumstances may the HAP contract continue beyond 180 days of the effective date of the HAP contract if the unit is not in compliance with HQS. While the PHA may first withhold HAP and then abate payments, for ease of administration, Option 1 states that the PHA will simply abate HAP if deficiencies are not corrected within 30 days and terminate the HAP contract after 90 days in order to mirror policies found in section 8-II.G., Enforcing Owner Compliance. If your PHA modified this section, you may wish to modify this policy as well.
- The PHA may apply the policy to all initial inspections or just a portion.

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- The administrative plan must specify the circumstances under which the PHA will enter into a HAP contract for a unit that fails the initial HQS inspection as a result of only life-threatening conditions and the circumstances under which the PHA will require the unit meet all HQS standards before entering into a HAP contract.
- PHAs that plan to adopt this policy must notify HUD of their intention to do so.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Replace the language in the model plan with the following:

The PHA will approve assisted tenancy and start HAP for any unit that fails HQS inspection if the deficiencies identified during the inspection are non-life-threatening.

Non-life threatening conditions are defined as any conditions that would fail to meet the housing quality standards under 24 CFR 982.401 and do not meet the definition of *life-threatening* as defined in Section 8-I.C., Life-Threatening Conditions. Prior to approving assisted tenancy and executing the HAP contract, the PHA will ensure that the unit does not have any life-threatening deficiencies.

The PHA will send written notice to the owner listing any non-life-threatening deficiencies and providing the owner with 30 calendar days, or a PHA-approved extension, to comply with HQS. If the non-life-threatening conditions are not corrected within notice period, the PHA will abate HAP until the unit is in compliance with HQS. The PHA will follow abatement policies listed in Section 8-II.G., Enforcing Owner Compliance.

The owner may be in abatement for a maximum of 90 days before the PHA terminates the HAP contract in accordance with Section 8-II.G., Enforcing Owner Compliance.

If the initial inspection identifies more than one non-life-threatening deficiency, the PHA will notify the family in writing within 10 business days of the inspection of the deficiencies and offer the family the opportunity to decline to enter into an assisted lease without losing their voucher. The notice to the family will also state that, if the owner fails to correct the non-life-threatening deficiencies, the PHA will terminate the HAP contract, and the family must move to another unit in order to continue receiving assistance.



Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Decision Point: Will the PHA authorize occupancy of a unit prior to the PHA's inspection if the property has passed an alternative inspection in the previous 24 months? (Model plan, p. 8-13)

Things to Consider

- In order to qualify as an alternative inspection method, the method must meet the same requirements used in alternative inspections under 24 CFR 982.406.
- The PHA must identify alternative inspection methods being used in the administrative plan, making clear the specific properties and types of properties for which the inspection methods will be employed.
- The PHA must conduct the HQS inspection within 15 days of receiving the RFTA, regardless of the PHA's program size.
- Once the unit has been inspected and met HQS, the PHA may make assistance payments retroactively, dating back to the effective date of the HAP contract and assisted lease term.
- If the PHA adopts this policy, it must notify owners and families, as applicable, of the new procedures and timeline for payments.
- Further, the PHA must advise the family of the PHA's list of life-threatening deficiencies so that the family can look for such items in the unit and notify the PHA immediately if such deficiencies are found or decline to enter into the lease with the owner.
- PHAs that plan to adopt this policy must notify HUD of their intention to do so.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Replace the language in the model plan with the following:

The PHA will rely on alternative inspections conducted under low-income housing tax credit (LIHTC) and HOME programs, as well as inspections performed by HUD, provided the unit passed inspection in the last 24 months. In this case, the PHA will approve the assisted tenancy and execute the HAP contract on or before the beginning of the lease term but prior to the PHA conducting an initial HQS inspection.

Upon receipt of the Request for Tenancy Approval (RFTA), the PHA will determine if the unit passed an alternative inspection within the previous 24 months.

The PHA will provide the family with a list of life-threatening deficiencies as part of the briefing packet so that the family may immediately notify the PHA of any life-threatening deficiencies found in the unit.

The PHA will conduct the HQS inspection within 15 days of receiving the RFTA.

If the unit passes HQS inspection, the PHA will pay HAP retroactive to the effective date of the HAP contract and the start of the assisted lease term.

If the unit does not pass the PHA's HQS inspection because of non-life-threatening conditions, the PHA will follow the PHA's policies on paying HAP for units with non-life-threatening deficiencies. The PHA will notify the owner in writing of any deficiencies, and the owner will have 30 days, or a PHA-approved extension, to correct the deficiencies.

If the unit does not pass HQS inspection because of life-threatening deficiencies as identified in Section 8-I.C., the owner must correct the defects within 24 hours.

The PHA will follow policies in Section 8-II.G., Enforcing Owner Compliance, if the owner does not correct the deficiencies within the required time frames listed above. Under no circumstances will the HAP contract continue beyond 180 days of the effective date of the HAP contract if the unit is not in compliance with HQS.



Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Timing of Initial Inspections

There are three decisions the PHA must make regarding the timing of inspections: the timeframe for conducting initial inspections, the turnaround time for reinspections, and the number of reinspections the PHA is willing to do.

- Decision Point: How many days can the PHA take to complete the initial inspection and notify the family and owner of the results? (Model plan, p. 8-13)**

Things to Consider

- The timeframe for completing initial inspections is regulatory for PHAs with 1250 or fewer units [982.305(b)(2)]. Therefore, PHAs in this category **must** choose Option 1.
- For PHAs with more than 1250 units, although it is not required, the regulations do state that “to the extent practicable” the PHA must complete the inspection and make the determination with 15 days.
- Based on this regulatory language, the model plan uses the 15 day standard for all PHAs.
- For PHAs with more than 1250 units, the model language can be adapted to allow the PHA to take longer than 15 days to complete the initial HQS inspection. However, keep in mind the standard set by the regulation—it is only in cases where it is not practicable that the PHA can take longer than 15 days to complete.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed (This option must be used for PHA with 1250 or fewer units).*

*****Added the current Admin. language below for the purpose of this form. No changes to the Admin. plan are needed. ******

The PHA will complete the initial inspection within 5 business days of receipt of the RTA. The 5 day period is suspended for any period during which the unit is not available for inspection.

The PHA will determine whether the unit satisfies HQS, and make the determination available to the owner and tenant via the internet the business morning following the inspection.

- Option 2: Edit the model language to say (This option may only be used for PHAs with more than 1250 units):*

To the extent practicable, the PHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

In cases where the PHA is not able to complete the inspection within 15 days, the file will be documented as to the reason it was not practicable.

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Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Inspection Results and Reinspections



Decision Point: How much time will the owner have to make repairs, and what turnaround time will the PHA commit to for reinspections? (Model plan, p. 8-13)

Things to Consider

- The model plan does not identify a specific number of days the owner will be given to correct the deficiencies, it simply states that the owner will be notified of the time frame for correcting any deficiencies.
- By not specifying the number of days in the policy the PHA will be able to exercise judgment in how many days to give, based on the nature and extent of the deficiencies.
- The model plan also allows a PHA to grant an extension to the time frame for correcting deficiencies. Providing extensions may reduce the number of additional reinspections requested by the family and owner.
- The model plan specifies that reinspections will be made within 5 business days of the owner's notice. PHAs need to determine if this timeframe is appropriate taking into consideration staffing and workload, as well as the time sensitive nature of the leasing process for both families and owners.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Current Admin language added below for the purpose of this form. No changes to the Admin are needed.**

If any HQS violations are identified, the owner will be notified of the deficiencies and be given 7 business days to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause. The PHA will reinspect the unit if the owner notifies the PHA that the required corrections have been made.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Decision Point: At what point will the PHA disapprove the unit and notify the family to search for a new unit? (Model plan, p. 8-13)

Things to Consider

- The language in the model plan commits the PHA to conducting one reinspection, but allows the PHA to schedule a second reinspection at the PHA's discretion.
- This language, minimizes the number of reinspections the PHA will be required to perform for new units, but also provides flexibility to the PHA by allowing for an additional reinspection when there is good cause (e.g. the owner made a good faith effort to make the repair, but the unit still did not meet HQS).
- On the other hand, if the violations were minor and the owner did not correct them within the specified correction period, the PHA is not required to conduct a second reinspection.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the PHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Utilities



Decision Point: Will the PHA permit the utilities to be placed in service after the unit has met all other standards? (Model plan, p. 8-14)

Things to Consider

- Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. Especially when a unit may have been vacant for some time, the owner may not want to put utilities back on line until it is clear that the PHA will otherwise accept the unit into the program
- For this reason some PHAs are willing to inspect the unit for all other standards and make a subsequent inspection to confirm that utilities are in working order. The model plan includes this policy to accommodate these PHAs.



Option 1: Use the model plan language shown below. No change to the model plan is needed.

*****Current Admin language added below for the purpose of this form. No changes to the Admin are needed. *****

Utilities must be working at the time of the inspection.



Option 2: Adopt a policy that permits delayed inspection of utilities but edit the current language in the model plan.



Option 3: Do not adopt a policy that permits delayed inspection of utilities. Delete this policy from the model plan.

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Appliances [Form HUD-52580]



Decision Point: How will the PHA confirm the existence of family-provided appliances? (Model plan, p. 8-14)

Things to Consider

- Most families that are moving cannot install appliances in a unit until the HAP Contract is executed. The PHA needs to confirm that appliances not present at the time of the HQS inspection have been provided.



Option 1: Use the model plan language shown below. No change to the model plan is needed.

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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

Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually.



Decision Point: Will the PHA choose to adopt biennial inspections? (Model plan, p. 8-15)

Things to Consider

- HCV regulations now require that units must be inspected “at least biennially.” PHAs that choose to continue to inspect units annually must revise their policies since this is now a discretionary option.
- PHAs may employ both annual and biennial inspections as long as the criteria are fair and are applied uniformly.
- HUD discourages agencies from adopting biennial inspections for reasons unrelated to the owner’s record of HQS compliance. For example, a policy based on the unit’s distance from PHA facilities would not be acceptable.
- In order to avoid the risk of paying HAP for a property that does not meet HQS, Option 1 provides that the PHA will inspect all units annually.
- Option 2 provides for biennial inspections, but provides that if a unit has a life-threatening deficiency, the owner will not be eligible for biennial inspections for 24 months.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Each unit under HAP contract must be inspected annually within 12 months of the last full HQS inspection.

- Option 2: Replace the language in the model plan with the following:*

Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. If a unit is found to have a life-threatening HQS fail, the owner of that unit will be required to participate in annual inspections for all units for the period of 24 months before being returned to biennial inspections. This does not apply to life-threatening HQS fails caused by tenants. One or more substantiated complaints will also require the owner of that unit to participate in annual inspections for all units for the period of 24 months before being returned to biennial inspections. The PHA reserves the right to require annual inspections of any owner at any time.

- Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

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In certain cases, the current HUD regulations allow PHAs to rely on alternative inspection methods such as those performed by HUD or conducted for other housing programs such as the HOME or the low-income housing tax credit (LIHTC) programs. If the PHA wishes to rely on alternative inspections, the PHA must identify the alternative inspection method in the administrative plan and may need to revise the annual plan. HUD approval is not required in this case. If the PHA wishes to rely on an inspection method other than those listed above, however, the PHA must notify and receive approval from REAC prior to amending the administrative plan and may need to revise the PHA annual plan as well. The standard must meet or exceed HQS. And the PHA may only rely on the alternative method only if the property receives a “pass” score, even if deficiencies are noted.

Further, the PHA has the option in a mixed finance property that is assisted under the PBV program and is also financed under a federal, State, and/or local housing program to rely on inspections conducted using alternative inspection methods that happen no less than triennially.

If the PHA relies on alternative inspections, the PHA must obtain inspection reports and other data from the entity conducting the inspection within 5 business days of the inspection. If the alternative inspection method employs sampling, the results may be utilized only if HCV units are included in the base population of the sample. Reports must be available for HUD inspection for at least three years from the date of the latest inspection.



Decision Point: Will the PHA accept the results of inspections performed by HUD or conducted for other housing programs for the annual/biennial inspection? (Model plan, p. 8-15)

Things to Consider

- Although most other housing programs follow UPCS, not HQS, relying on these inspections is allowed.
- If your PHA chooses to accept the results of LIHTC inspections, remember that LIHTC does not use a pass/fail system; all instances of noncompliance with UPCS are noted without regard to severity levels. PHA staff will have to evaluate whether instances of noncompliance noted as part of the inspection rise to the level of an HQS fail. If so, the PHA must promptly conduct an HQS inspection.
- HOME units are inspected using minimum property standards, which vary depending on the HOME activity. PHA staff who review inspection reports for HOME units will need to be familiar with their PJ inspection form and requirements. This methodology may or may not include a pass/fail system.
- Both LIHTC and HOME units are inspected by the state allocating agency/participating jurisdiction(PJ) at least once every three years. Since HUD requires all tenant-based HCV units be inspected at least biennially, the PHA will likely still need to conduct inspections of tenant-based HCV units in years they are not inspected by the state allocating agency/PJ.

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- Since HUD allows PHAs to accept triennial inspections of PBV units in mixed finance developments, the PHA may wish to adopt a policy that alternative inspections will only be utilized in this specific case.
- Since LIHTC and HOME inspections are not conducted biennially, and additional staff time will be required to determine whether units passed or failed inspection, Option 1 states that the PHA will not rely on alternative inspection methods.
- If the PHA wishes to use alternative inspection methods, select Option 2.



Option 1: Use the model plan language shown below. No change to the model plan is needed.

The PHA will not rely on alternative inspection standards.



Option 2: Replace the language in the model plan with the following:

The PHA will accept the results of inspections performed by HUD or for the HOME or LIHTC programs. Inspections will only be accepted if HCV units are included in the population of units forming the basis of the sample.

The PHA will not utilize inspection results other than from inspections conducted by HUD or for the HOME or LIHT programs.

Inspection reports and other data must be provided to the PHA within 5 business days of the inspection. The PHA will review the inspection reports and determine whether the unit will receive a “pass” under HQS within 5 business days. If the PHA determines that the unit does not pass, the PHA will notify the owner and conduct an HQS inspect within 10 business days.



Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA’s policy.

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Scheduling the Inspection



Decision Point: How will the PHA handle family "no shows" or requests to reschedule for the annual/biennial inspection? (Model plan, p. 8-15)

Things to Consider

- The language in this Section concerning who attends the inspection should be consistent with the policy stated in 8-II.A above.
- Having to reschedule appointments and make multiple trips to the unit to conduct inspections is burdensome to the PHA. A stringent policy with respect to rescheduling helps the PHA complete inspections within the timeframes expected by HUD.
- On the other hand, terminating assistance because the family has failed to make the unit available for inspection is a serious step.
- You should select a policy that is appropriate for your jurisdiction.



Option 1: Use the model plan language shown below. No change to the model plan is needed.

If an adult ~~family member~~ cannot be present on the scheduled date, the family should request that the PHA reschedule the inspection. The PHA and family will agree on a new inspection date that generally should take place within ~~five~~ five business days of the originally scheduled date. The PHA may schedule an inspection more than ~~five~~ five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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

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

- Decision Point:** What policies does the PHA want to establish with respect to special inspections? (Model plan, p. 8-15)

*****Admin updated to reflect the language below.*****

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

During a special inspection, the PHA 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/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full annual/biennial inspection.

- Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

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

This section of the model plan briefly describes HUD quality control requirements. **No policy decisions are required.**

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8.II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

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



Decision Point: How and when will the PHA notify owners of the results of an inspection? (Model plan, p. 8-16)

Things to Consider

- The model plan specifies that life-threatening deficiencies must be corrected within 24 hours. Other deficiencies must be corrected within 30 days unless an exception is given.
- Because life-threatening conditions must be corrected so quickly, the owner and family will be notified immediately by phone, facsimile or email.
- When conditions are non-life threatening the PHA will notify the owner and family within 5 business days. This time period is shorter than the general time period of 10 business days used throughout the plan. This shortened timeframe will ensure that HQS violations are corrected as quickly as possible.
- The notice of inspection results will inform the owner and family of the consequences if the HQS violations are not corrected (e.g. HAP abatement, termination of the family's assistance).
- Including this information in the first notice is not required, but is good practice.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

When failures that are not life-threatening are identified, the PHA 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 specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

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 PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.).

Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Extensions

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



Decision Point: When will the PHA consider an exception to the timeframes for correcting deficiencies? (Model plan, p. 8-17)

Things to Consider

- The model plan allows for extensions to be granted in cases where the PHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Included are three examples, but extensions are not limited to these criteria, giving the PHA maximum flexibility.
- A PHA may wish to limit extensions by identifying the specific circumstances that the PHA will consider as "reasons beyond the owner's control." Although this type of policy will minimize the number of extension requests a PHA will have to consider, it may also restrict the PHA from granting an otherwise reasonable extension request simply because it does not meet the specific criteria identified in the PHA's policy.
- The model plan language sets an outside date for non weather-related extensions of 60 calendar days and requires that weather-related corrections be made within 15 calendar days once the climate conditions have subsided.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

A repair cannot be completed because of weather conditions.

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

The length of the extension will be determined on a case by case basis, but will not exceed 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.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

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Reinspections



**Decision Point: What is the process for scheduling and conducting reinspections?
(Model plan, p. 8-17)**

Things to Consider

- The PHA is required to take appropriate action if the unit does not meet HQS following the corrective period, therefore, the reinspection must be scheduled immediately following the corrective period.
- At the time the unit fails the reinspection, the PHA will notify the owner and the family of the results, and any applicable consequences (HAP abatement or termination of assistance).
- The model plan clarifies that if the PHA cannot gain entry to reinspect the unit, this will be considered a violation of family obligations and the family may be terminated in accordance with policies in Chapter 12.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the PHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

8.II.G. ENFORCING OWNER COMPLIANCE

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

HAP Abatement



Decision Point: What is the effective date of abatements? (Model plan, p. 8-18)

Things to Consider

- If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension).
- No retroactive payments will be made to the owner for the period of time the rent was abated.
- Owner rents are not abated as a result of HQS failures that are the family's responsibility.
- The PHA has the option of placing the abatement as of the first of the month following the expiration of the 30-day abatement notice or abating rent exactly 30 days after expiration of the notice and pro-rating the rent the owner is due.
- Abating HAP exactly 30 days after notice to the owner imposes on the PHA the additional administrative burden of pro-rating the amount of HAP the owner is entitled to. However, waiting until the first of the following month delays the abatement.
- If HAP is abated exactly 30 days after the correction period expires the PHA will either have to offset future HAPs or collect the overpaid amount directly from the owner if no future HAPs are made (HAP contract is terminated).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

Decision Point: When will reinspections occur and housing assistance payments reinstated following abatement of HAP? (Model plan, p. 8-18)

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA 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.

Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV p. 10-29] and must give the owner reasonable notice of the termination.

Decision Point: How long will the PHA permit a unit to be abated before the HAP contract will be terminated? (Model plan, p. 8-18)

Things to Consider

- The family generally is permitted to remain in the unit during the abatement period and is therefore living in an unsatisfactory situation.
- Since the PHA should not terminate the HAP contract until the family has found another place to live, the maximum length of time has been set at 90 days.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Reasonable notice of HAP contract termination by the PHA is 30 days.

Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

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

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12. **No additional policies are required in this section.**

**Instructions for Preparing Chapter 8: Housing Quality Standards
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PART III. RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

This overview section introduces the concept of rent reasonableness and explains the requirement for an independent entity to determine rent reasonableness for PHA-owned units. **No policy decisions are required.**

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family.



Decision Point: How will requests for rent increases from owners be processed? (Model plan, p. 8-20)

Things to Consider

- The model plan language allows the PHA to require the owner to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. This is similar to the information owners are required to submit with the Request for Tenancy Approval.
- The model plan language also clarifies that when comparables from the owner are used, the PHA will consider the length of tenancy in the other units. This is important because someone who moved into a complex 10 years ago (when rent was much lower), will likely be paying a lower amount of rent (even considering annual rent increases) than someone who moves in today.

Example of the impact of this policy.

Note: This example is not included in the model plan.

An owner is asking \$500 for a unit and 3 other units of the same size that have turned over this year are renting for \$500 but 4 units that have been occupied by the same tenants for many years have rents ranging from \$450 to \$480. It would be reasonable for the PHA to assume that the market for units becoming available now is \$500.

- The model plan states that the PHA will make a determination of rent reasonableness within 10 business days of receiving the request for a rent increase from the owner. This time frame is used whenever possible in the model plan for administrative ease and consistency.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

- The plan states that the effective date of the rent increase will be the first of the month following 60 days after the PHA's receipt of the owner's request, or the date specified by the owner, whichever is later. The owner is required to submit the request 60 days prior to the proposed effective date. The model plan policy is consistent with this time frame.
- When determining an appropriate effective date, remember that families must be given adequate notice of any rent increase. In this plan, adequate notice is considered 30 days.
- If changes are made to the policy here, changes may also need to be made to the policy in Section 9-I.H.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

The PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.



Decision Point: Does the PHA want to identify any other circumstances that will trigger a new determination of rent reasonableness? (Model plan, p. 8-20)

Things to Consider

- The regulations permit the PHA to review rent reasonableness at any time. Therefore, it is not necessary for the administrative plan to specify the circumstances when the PHA will do so. However, stating when the PHA will do so is a good practice and will help to ensure consistency among staff.
- Once the PHA establishes the policy, the PHA must monitor those circumstances and take action when they are met.
- The model plan includes two circumstances in which the PHA will initiate a new rent reasonableness determination.
- When a market area suffers an economic recession that results in higher vacancy rates, rents may actually decline. In such circumstances owners may decide not to request a rent adjustment. You may wish to establish a threshold at which the PHA will redetermine rent reasonableness based upon market conditions. Note that this policy is NOT in the model plan. Sample language has been provided in Option 2 below.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

- Option 1: Use the model language shown below. No changes to the model plan are needed.*

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

- Option 2: Edit the plan and use the language below.*

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error, (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect, or (3) the vacancy rate for standard units in the market area changes by more than 2% within a calendar year and the owner has not requested a rent adjustment.

- Option 3: PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

This subsection of the model plan lists the comparability requirements for LIHTC- and HOME-assisted units. **No policy decisions are required.**

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

This subsection of the model plan lists the HUD-required factors that affect comparability. **No policy decisions are required.**

Units that Must Not Be Used as Comparables

This subsection of the model plan identifies the units HUD specifies must not be used as comparables. **No policy decisions are required.**

Rents Charged for Other Units on the Premises

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

No policy decisions are required.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

HUD requires the PHA to describe its methodology for making rent reasonableness determinations. Section 8-III.D is intended to be that description. The PHA should describe three aspects of the methodology: (1) how the PHA collects market data, (2) how the PHA uses the information collect and (3) how negotiations with owners will be handled. Each of these is discussed below.

How Market Data Is Collected



Decision Point: The PHA must describe in the plan how the PHA collects the information it will use for rent reasonableness. (Model plan, p. 8-23)

Things to Consider

- The default policy in the model plan describes in general terms the kind of sources the PHA can use to collect information about rent. You should insert more specific language that describes the way data is collected at your authority. For example if you conduct periodic full scale market studies using staff or a contractor, this should be described in the plan.
- Likewise, some PHAs may use online tools such as www.gosection8.com, which will collect and maintain data on market rents in the PHA's jurisdiction. Option 2 provides a policy for www.gosection8.com users.
- Please note that the model plan language says that the PHA will not use data that is older than 12 months.

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- Option 1: Use the model language shown below. No change to the model plan is needed.*

*****Current Admin language added below for the purpose of this form No changes to the Admin are needed *****

The PHA will utilized McCright and Associates to collect and maintain data on market rents in the PHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

- Option 2: Edit the plan and use the language below.*

The PHA will primarily utilize www.gosection8.com which will collect and maintain data on market rents in the PHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes.

The data will be updated on an ongoing basis and rent information that is more than 12 months old will be archived in www.gosection8.com. Market Rent Data greater than 12 months old will not be used for eligibility but may be used for reference.

- Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

How Rents are Determined



Decision Point: How will the PHA describe the analysis method it will use to make rent reasonableness determinations? (Model plan, p. 8-23)

Things to Consider

- The default model plan language is taken from HUD Handbook 4350.1 for multifamily housing programs. Although the handbook does not apply to the HCV program, these factors present a good overview of how the PHA makes its decision and address common questions raised by owners.
- If the PHA uses www.gosection8.com and selected the Option 2 policy under How Market Data Is Collected, select Option 2 below.



Option 1: Use the model plan language shown below. No change to the model plan is needed.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. Typically units may be similar, but not exactly like the unit proposed for HCV assistance. Therefore, the PHA may make upward and downward dollar adjustments for differences between the proposed HCV unit and the comparables to determine the reasonable rent for the HCV unit.

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

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

The adjustment must reflect the rental value of the difference—not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

Option 2: Edit the plan and use the language below.

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The PHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the PHA may make adjustments to the range of prices to account for these differences. The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

The PHA uses a unit-to-unit comparison, by which the rent for a unit proposed for HCV assistance is directly compared to the rents for one or more unassisted units selected as comparables within the same market area. Geocoded maps will be used to identify the non-assisted units in closest proximity to the subject unit, and unit data information will be used to select the most similar units.

In comparing rents, the PHA will take into account critical market factors that impact rent, including the location, quality, size, unit type, and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Where comparable units differ from the unit proposed for HCV assistance, the PHA will determine whether those differences impact rent. Where they do, the PHA will adjust the rental value of the comparable units, up or down, based on the market value of these factors. The rent for the unit proposed for HCV assistance will be compared to the adjusted rents for the comparable units, enabling a fair, accurate, market-based determination of rent reasonableness.

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom). The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs). When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500/12 \text{ months} = \text{actual monthly rent of } \488 .

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

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

- Option3: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

Owner Submission of Market Data



Decision Point: Will the PHA permit the owner to submit market data to support the proposed rent? (Model plan, p. 8-23)

Things to Consider

- Owners have no right to appeal rent reasonableness determinations. But the model plan language permits the owner to submit additional data if the owner believes the PHA's rent determination is not correct. This practice is not required; but it can be helpful. It may enable the PHA to approve a unit selected by a family and help the PHA add to and refine the PHA's database.
- To avoid delays in HAP contract execution and rent adjustments, note that the model plan requires the owner to submit any additional data within 5 business days. This is a departure from the standard 10 business days used throughout the plan.



Option 1: Use the model language. No change to the model plan is needed.

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



Option 2: Use PHA-established policy. Edit the model language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 8: Housing Quality Standards and Rent Reasonableness Determinations

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

**Instructions for Preparing Chapter 8: Housing Quality Standards
and Rent Reasonableness Determinations**

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to moves in two sections:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

The primary regulations governing moves are found at 24 CFR 982.354. The primary regulations governing portability are found at 24 CFR 982.353 and 982.355. Additional HUD requirements on portability are found in Notice PIH 2012-42.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

This section sets forth the six regulatory conditions that HUD has established for permissible moves with continued assistance in the housing choice voucher (HCV) program. These conditions apply to all moves by participant families, whether they occur within a PHA's jurisdiction or outside it under portability.



Decision Point: If a family and owner mutually agree to terminate the lease for the family's unit, will the PHA require the family to provide a copy of the termination agreement? (Model plan, p. 10-1)

Things to Consider

- HUD regulations permit a family receiving assistance under the HCV program to move with continued assistance if the family and the owner of the family's unit mutually agree to terminate the lease for the unit. Since the regulations do not specifically require the family to provide the PHA with a copy of the agreement to terminate, the model plan requires the family to do so. This is consistent with the requirement that families provide the PHA with a copy of any owner eviction notice.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability



Decision Point: If a family claims that it must move to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, will the PHA request documentation of the abuse? (Model plan, p. 10-2)

Things to Consider

- When a family requests permission to move with continued assistance based on a family member's status as a victim of domestic violence, dating violence, sexual assault, or stalking, a PHA has the authority, but is not required, to request documentation of the abuse [24 CFR 5.2007, Notice PIH 2012-42].
- HUD requirements and PHA policies on documentation of domestic violence, dating violence, sexual assault, or stalking are presented in section 16-IX.D of the model plan. The model policy here simply states that the PHA will request documentation in accordance with those requirements and policies.
- The VAWA 2013 final rule requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, or stalking. For HCV participants, emergency transfers may be accomplished by promptly issuing a voucher to the family.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the PHA based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will request that the resident request the emergency transfer using form HUD-5383, and the PHA will request documentation in accordance with section 16-IX.D of this plan.

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

The PHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, the PHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and ~~diseases~~ discusses external transfers to other covered housing programs.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

10-I.B. RESTRICTIONS ON MOVES

Denial of Moves

Insufficient Funding



Decision Point: Under what conditions will the PHA deny a family permission to move on the grounds that the PHA lacks sufficient funding for continued assistance? (Model plan, p. 10-3)

Things to Consider

- HUD permits a PHA to deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. HUD also permits a PHA to terminate a HAP contract for the same reason. In the regulation governing termination of a HAP contract, HUD states that the determination of insufficient funding must be made “in accordance with HUD requirements” [24 CFR 982.454]. Although HUD has not issued any binding guidance on this subject, HUD has shared its methodology for determining insufficient funding with industry groups. This methodology is the basis for the policy contained in Chapter 16 that is referenced in this policy.
- In Notice PIH 2016-09 HUD significantly restricts the ability of PHAs to deny permission to move both within and outside the PHA’s jurisdiction under portability due to insufficient funding. The notice states that a PHA may deny moves to a higher cost unit or area due to insufficient funding **only** if **all** of the following apply:
 - The move is to a higher cost unit (for moves within the PHA’s jurisdiction) or a higher cost area (for portability moves).
 - The receiving PHA is not absorbing the voucher (for portability moves).
 - The PHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation for HAP (including any available HAP reserves).
- A *higher cost unit* for moves within the jurisdiction is defined as one in which a higher subsidy amount would be paid due to an increase in the gross rent. The PHA may not deny a move within its jurisdiction (even to a higher cost unit) if the family must move from their current unit.
- A *higher cost area* under portability is defined as an area in which the PHA would have to pay a higher subsidy due to another PHA’s higher payment standard or subsidy standards. The PHA may deny a move to a higher cost area even if the family must move from their current unit if the receiving PHA is not absorbing the family’s voucher.

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- For both moves within the PHA's jurisdiction and under portability, if the PHA approves a request to move and then subsequently experiences a funding shortfall, the PHA may only rescind the voucher if the family would be allowed to remain in the current unit. If the family cannot remain in the unit, the PHA may not rescind the voucher and the family must be allowed to lease a new unit.
- If the family must move from their unit (e.g. the unit failed HQS), requirements differ depending on whether the family is requesting to move within the jurisdiction or outside under portability:
 - The PHA must not deny the move due to insufficient funding if the family is requesting to move within the PHA's jurisdiction.
 - The PHA may deny the move due to insufficient funding if the family is moving to a higher cost area under portability.
- The default policy states that the PHA will allow families to move in this situation if the move is within the PHA's jurisdiction but will prohibit moves under portability to higher cost areas in this situation. If the PHA wishes to allow moves under portability in this situation as well, the model language must be amended.
- When a PHA determines that it is necessary to deny a move based on insufficient funding, it must provide written notice to the local HUD office supporting and documenting the lack of funds within 10 business days of its determination to deny the move. Notice PIH 2016-09 lists the exact documentation that this notification must include. In addition, to help with this, HUD has made a sample spreadsheet available at www.hud.gov/offices/pih/programs/hcv. The PHA may not include projected costs for vouchers that have been issued to families from the waiting list but not yet leased as part of this analysis.
- Before denying a move under portability to a higher cost area based on insufficient funding, an initial PHA must contact the receiving PHA to determine if the receiving PHA will absorb the family. In addition, the initial PHA must take into consideration any changes in the family's income or composition that would result in a decreased subsidy amount. [Notice PIH 2016-09]
- Be aware that penalties for improper denials due to insufficient funding can include an administrative fee reduction of up to 10 percent for the two quarters following the quarter that HUD identified improper denials. They can also include additional remedial actions or sanctions.

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- For the determination of insufficient funding for moves to higher cost units or areas, the model plan adopts the methodology described in Chapter 16.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: How will the PHA address families who have requested a move and were denied due to lack of funding once the PHA has determined that funds are available for those moves? (Model plan, p. 10-3)

Things to Consider

- If the PHA denies a family's request to move, it may not subsequently admit any additional families to its voucher program until the PHA has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its move to the higher cost area.
- Notice PIH 2016-09 requires that PHAs establish policies regarding how moves denied due to insufficient funding will be addressed once the funds become available. These policies must include how the PHA will notify families with open requests when the funds become available and how long the family's request will be open for consideration. The default policy provides for keeping such requests open indefinitely.
- In addition, the default policy establishes a list for families whose moves have been denied due to insufficient funding. This list takes precedence over the waiting list and uses the same notification procedures as those used for the waiting list.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request for portability open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: How will the PHA inform the family of its policy regarding moves denied due to insufficient funding? (Model plan, p. 10-3)

Things to Consider

- As one of the policy requirements in Notice PIH 2016-09, PHAs must also state how families will be notified of the PHA's policy regarding moves denied due to lack of funding.
- The notice suggests that this information could be contained in the PHA's briefing packets or sent as a letter to the participant at the time the move is denied. The policy opts for sending a letter to the participant at the time the move is denied. This ensures that the information is provided when it is needed.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Grounds for Denial or Termination of Assistance



Decision Point: Under what conditions, if any, will the PHA deny a family permission to move if the PHA has grounds for denying or terminating the family's assistance? (Model plan, p. 10-4)

Things to Consider

- HUD gives the PHA the discretion to deny a family permission to move if the family's action or failure to act constitutes grounds for terminating assistance [24 CFR 982.314(e)(2)]. Basically, this discretion allows the PHA to hold a family accountable for its action or failure to act without taking the more drastic step of denying or terminating the family's assistance.
- The model plan language chooses not to exercise this discretion on a routine basis, but instead to deny or terminate assistance in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively, of this plan. Option 2 allows the PHA to choose the specific conditions under which it would consider denying a move as an alternative to denying or terminating assistance.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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- Option 2: Delete the model plan language. Use the criteria below to select the policy options for denying a family permission to move if the family's action or failure to act would be the same circumstances under which the PHA would deny assistance for an applicant or terminate assistance for a participant.*

In determining whether to deny permission to move, the PHA will consider the criteria under federal regulations at 24 CFR 982.552(c)(1) and applicable alternative requirements. These include:

The family has violated any family obligations under the program.

Any member of the family has been evicted from federally assisted housing in the last five years.

A PHA has ever terminated assistance under the program for any member of the family.

Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program (see also 24 CFR 982.553(a)(1)).

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 U.S. Housing Act.

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family breaches an agreement with the PHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA. (The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.)

The family has engaged in or threatened abusive or violent behavior toward PHA personnel.

A welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

The family has been engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553.

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The PHA will also consider the same extenuating circumstances as would be considered when determining whether to deny or terminate assistance under 24 CFR 982.552(c)(2). These include:

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

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

In determining whether to deny a move for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the PHA may require the applicant or tenant 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.

If the family includes a person with disabilities, the PHA's decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 CFR 8.

The PHA's admission and eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Restrictions on Elective Moves [24 CFR 982.354(c)]



Decision Point: Under what circumstances would the PHA wish to deny a family-initiated move during the initial lease term or more than once in any 12-month period? (Model plan, p. 10-4)

Things to Consider

- HUD regulations allow the PHA to adopt policies prohibiting family-initiated moves during the initial lease term or prohibiting a family from moving more than once during any 12-month period unless a move is necessary to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. These policies may apply to moves within the PHA’s jurisdiction and moves outside it under portability. The model plan language adopts these permissive policies. However, the plan also allows for situations in which the PHA might need or wish to make exceptions.
- When a family has a legitimate need to move, the plan does **not** require owner approval to terminate the tenancy. The PHA should carefully consider the implications of approving a family move during the initial term if the owner does not agree to the move. In such a situation, the family could be in violation of the dwelling lease. In addition, the model plan language does **not** allow for an exception during the initial lease term simply because the family wants to move and the owner agrees. And, of course, the owner could not terminate tenancy during the initial lease term for “other good cause.” Essentially, the model plan language provides the latitude to permit exceptions for legitimate family needs but not simply for the convenience of either or both parties.
- In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The PHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA's jurisdiction.

The PHA will consider exceptions to this policy for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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10-I.C. MOVING PROCESS

Notification

This section describes notification requirements when a family wishes to move to a new unit, inside or outside the PHA's jurisdiction. **No policy decisions are required.**

Approval



Decision Point: How and when will the PHA approve a family request to move to a new unit with continued assistance? (Model plan, p. 10-5)

Things to Consider

- The policy in the model plan imposes a limit on the time the PHA is allowed to determine whether it will approve a family's request to move. It also requires the PHA to notify the family in writing of its determination. Since these are not regulatory requirements, the PHA may prefer to adopt a different policy in this area or no policy at all. At a minimum, however, the PHA should have procedures in place that clarify when and how a family request to move with continued assistance will be approved.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Reexamination of Family Income and Composition



Decision Point: Will the PHA conduct a full reexamination when a participant family requests to move to a new unit? (Model plan, p. 10-5)

Things to Consider

- The PHA must decide whether it will routinely conduct a new reexamination when a family moves to a new unit. The model plan language takes into consideration two factors:
 - The PHA must be able to ensure that the new unit meets the affordability standard. The regulations require that the affordability determination be based on income verification information “received by the PHA no earlier than 60 days before the PHA issues a voucher to the family” [24 CFR 982.508]. Because of this constraint, the model plan language assumes that the PHA will routinely conduct a full reexamination when a family requests to move. If the PHA elects a different policy, that policy must be consistent with the one on voucher issuance that follows.
 - The PHA has less control over moves into and out of its jurisdiction under portability than it does over moves within its jurisdiction. Therefore, the model plan elects to establish separate policies regarding reexaminations for portability moves. Those policies are located in sections 10-II.B and 10-II.C of Chapter 10.
- The decision the PHA makes here should be consistent with the general decisions on reexaminations that the PHA makes in Chapter 11.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For families approved to move to a new unit within the PHA’s jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

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



Option 2: Delete the model plan language and substitute the language below.

For families approved to move to a new unit within the PHA’s jurisdiction, the PHA will **not** perform a new annual reexamination.

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



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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

The PHA, at its discretion, may choose to waive performing a new annual reexamination. If the PHA elects to not perform the annual, the PHA will conduct the annual reexamination at a later date.

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

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Voucher Issuance and Briefing



Decision Point: When and under what terms will the PHA issue a voucher to a participant family that wishes to move? Will the PHA require that the family attend a briefing? What will the PHA do if the family fails to lease up in the time allotted? (Model plan, p. 10-5)

Things to Consider

- When a family moves to a new unit, the PHA has decisions to make about the timing of voucher issuance as well as about voucher term and extensions. It must also decide whether or not a family must be briefed prior to voucher issuance and what happens if the family fails to locate a new unit within the time allotted. Acknowledging the added complexities associated with moves into and out of a PHA's jurisdiction under portability, the model plan deals with these moves separately in Part II of this chapter.
- The model plan ties voucher issuance for a family moving to a new unit within its jurisdiction to the PHA's written approval to move.
- The model plan assumes that a family moving within the PHA's jurisdiction is sufficiently familiar with the lease-up process that it does not require a briefing. However, the PHA may want to offer a briefing as an option. In other respects, the model plan language is consistent with policies established in Chapter 5.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. **No policy decisions are required.**

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Zero HAP Families Who Wish to Move



Decision Point: Will the PHA enter into a HAP contract for a unit in which no subsidy will be paid on behalf of a family who is zero HAP? (Model plan, p. 10-6)

Things to Consider

- If a family becomes zero HAP as a result of a reexamination, the family may continue as program participants for six months from the date of the reexamination effective date. During this period, the HAP contract remains in effect. If family circumstances change during this period, the PHA conducts an interim and reinstates assistance. After 180 calendar days since the last housing assistance payment to the owner, however, the HAP contract automatically terminates.
- A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations.
- However, once the family finds a new unit, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.
- Since the purpose of the program is to assist low-income families obtain decent housing by paying a rent subsidy, if no subsidy is needed, Option 1 states that the PHA will not enter into a HAP contract. This policy is consistent with guidance received in a HUD letter dated December 3, 1997.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP contract on behalf of the family for the new unit.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

PART II: PORTABILITY

10-II.A. OVERVIEW

This brief section provides an overview of portability and explains that, under the portability procedures, the PHA sometimes wears the hat of initial PHA and sometimes wears the hat of receiving PHA. These two distinct roles require different policies and therefore are dealt with separately in two subsections.

No policy decisions are required.

10-II.B. INITIAL PHA ROLE

The provisions in this section apply when the PHA is acting as the initial PHA for a family moving out of the PHA’s jurisdiction into the jurisdiction of another PHA (the receiving PHA) under the portability procedures. The portable family may be a participant family that has been receiving voucher assistance in the PHA’s jurisdiction, or it may be a family that has been issued a voucher but has not yet been admitted to the program. The rules for participant families and applicant families differ in some ways; therefore, the policies adopted for these families in some cases need to be different.

Allowable Moves under Portability

Whereas the general rules on moves apply primarily to participant families, the rules on moves out of a PHA’s jurisdiction under portability apply both to participant families and applicant families that have been issued a voucher. The income eligibility rules for applicant and participant families differ.

Applicant Families



Decision Point: Under what conditions will the PHA deny portability to a resident applicant family? (Model plan, p. 10-8)

Things to Consider

- A family that has not yet leased a unit in the initial PHA’s jurisdiction under the voucher program generally has a right to move under the portability procedures if the head of household or spouse/cohead was a resident of the initial PHA’s jurisdiction at the time the initial application for assistance was submitted. However, the initial PHA has the authority to deny the family this right if the PHA determines that it does not have sufficient funding or that it has grounds for denying assistance to the family. The model plan follows the same criteria established in section 10-I.B for making these determinations.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: Will the PHA allow nonresident applicant families who have never lived in or leased a unit in the PHA's jurisdiction to accept a PHA-issued voucher and immediately use that voucher to request portability assistance in another jurisdiction? (Model plan, p. 10-8)

Things to Consider

- The HUD regulations on portability make a distinction between resident and nonresident applicant families. A nonresident family is one whose head or spouse/cohead did not have a domicile (legal residence) in the initial PHA's jurisdiction when the family first submitted an application for admission to the initial PHA's voucher program [24 CFR 982.353(c)(1)]. Unlike resident families, nonresident families have no right to portability for the first 12 months after they are admitted to the program; however, the initial PHA has the discretion to allow portability during this period [24 CFR 982.353(c)(2)].
- The main reason that a PHA might wish to not allow nonresident applicant families to move during their first year in the program is to discourage "waiting list shopping." In other words, an applicant who is a resident in another jurisdiction and has no intention of leasing in the initial PHA's jurisdiction might apply for a voucher with the initial PHA because the initial PHA has a short waiting list. In this way, the applicant receives a voucher relatively quickly and is able to lease in a different location with no real connection to the initial PHA or the initial PHA's community.
- A PHA with a relatively high leasing rate may be concerned about the extent to which the voucher assistance awarded to the PHA is actually used to assist families who live in the PHA's community. Such a PHA may not wish to allow portability for nonresident applicant families. On the other hand, a PHA with a relatively low leasing rate, a small or nonexistent waiting list, and low demand may wish to allow portability for nonresident families if doing so increases the rate of voucher utilization for the PHA.
- The model plan language does **not** allow portability for nonresident families during the first 12 months after admission except for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, or stalking.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Delete the model plan language and substitute the language below.

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time the family's application for assistance was submitted, the family will be allowed to move to an area outside the PHA's jurisdiction under portability [24 CFR 982.353(c)].



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Participant Families



Decision Point: Will the PHA follow the same policies established in sections 10-I.A and 10-I.B for approving or disapproving moves by participant families under portability? (Model plan, p. 10-9)

Things to Consider

- HUD regulations make only one meaningful distinction between allowable moves by participant families within a PHA’s jurisdiction and allowable moves by these families outside the PHA’s jurisdiction under portability. The regulation at 24 CFR 982.353(b) specifically states that the PHA “must not provide . . . portable assistance for a participant if the family has moved out of its assisted unit in violation of the lease.” However, like 24 CFR 982.354(b)(4), this regulation carves out an exception for families that move out of their units in violation of the lease in order to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. If such families have complied with all other HCV obligations, says 24 CFR 982.353(b), they may be allowed to move under portability.
- The model plan simply clarifies that the PHA will approve or disapprove moves by participant families under portability using the same criteria that it uses to approve or disapprove moves by families within its own jurisdiction. Those criteria allow exceptions for victims of abuse.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Determining Income Eligibility

This section describes the income eligibility requirements for applicants and participants who wish to move to outside the PHA’s jurisdiction. **No policy decisions are required.**

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Reexamination of Family Income and Composition

The PHA is not required to make any policy decisions on reexaminations for applicant families approved to move under the portability procedures. However, decisions in this area are required for participant families.



Decision Point: Will the PHA conduct a full reexamination of family income and composition for participant families porting out of its jurisdiction? (Model plan, p. 10-9)

Things to Consider

- In deciding whether to conduct a full reexamination of family income and composition for a participant family approved to move under the portability procedures, the main factor the PHA will need to consider is the family's annual reexamination date.
- On the one hand, whether the receiving PHA intends to administer the family's assistance or absorb the family into its own program, the initial PHA will be responsible for conducting the family's annual reexamination—and reporting it in the Public and Indian Housing (PIH) Information Center (PIC) system—until the receiving PHA executes a HAP contract on behalf of the family. Therefore, the initial PHA cannot simply adopt a policy that it will not conduct reexaminations for families moving outside its jurisdiction under portability. It must take into consideration the amount of time likely to elapse before a family is leased up in the receiving PHA's jurisdiction.
- On the other hand, since the family's circumstances may change when the family moves and since the receiving PHA may wish to conduct its own reexamination, the initial PHA ordinarily will not want to go to the trouble of conducting a full reexamination for a portable family whose annual reexamination date will not be due until after the receiving PHA has executed a HAP contract on the family's behalf.
- For these two reasons, the model plan language assumes that the PHA will conduct a full reexamination of a portable family's income and composition only if the family's reexamination date will fall on or before the initial billing deadline specified on form HUD-52665, Family Portability Information. The policy language under option 2 allows an additional 30 days of leeway. If the PHA is willing to accept a late billing from the receiving PHA, this option may be preferable.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Delete the model plan language and substitute the language below.

For a participant family moving out of its jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed before 30 days following the initial billing deadline specified on form HUD-52665, Family Portability Information.

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



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Briefing

As the model plan explains, no policy decisions are required on briefings for applicant families. However, the PHA may wish to adopt a policy on whether or not and to what extent participant families will be briefed before they port out of the PHA's jurisdiction to another area.



Decision Point: Will the PHA brief participant families moving out of its jurisdiction under portability? (Model plan, p. 10-10)

Things to Consider

- If a participant did not qualify for portability when it was admitted to the voucher program, it may never have been briefed on portability. Even if the family was briefed, it may well have forgotten how the process works.
- If the PHA's policies on voucher term, extensions, and expiration are different for portable families than for families planning to lease a unit within the PHA's jurisdiction, the PHA must make these differences clear.
- If more than one PHA administers a voucher program in the area to which the family wishes to move, the family selects the receiving PHA. The initial PHA must provide the family with contact information for all receiving PHAs in the area and may provide additional details such as whether the receiving PHA administers an FSS program. The family may request that the initial PHA select the receiving PHA, in which case the PHA is not required to provide contact information for all receiving PHAs in the area.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Voucher Issuance and Term

An applicant family does not need to be issued a new voucher to port to another jurisdiction. However, a participant family does.



Decision Point: When will the PHA issue a participant family a voucher to move under portability? What will the initial term of the voucher be? (Model plan, p. 10-10)

Things to Consider

- The model plan language ties voucher issuance for a participant family to the PHA's written approval to move.
- The model plan establishes an initial term of 60 days for a portable voucher. This is consistent with the model plan policies related to voucher term in Chapter 5 and in section 10-I.C of this chapter.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For participating families approved to move under portability, the PHA will issue a new voucher within 10 business days of the PHA's written approval to move.

The initial term of the voucher will be 60 days.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Voucher Extensions and Expiration



Decision Point: What policies will the PHA adopt on voucher extensions and expiration for portable families? (Model plan, p. 10-11)

Things to Consider

- When a family moves from one PHA’s jurisdiction to another’s under portability, both the initial PHA and the receiving PHA issue the family a voucher. This raises the question of which voucher, at any given time, is “the voucher of record.” Notice PIH 2016-09 states the following:

“If an incoming family ultimately decides not to lease in the jurisdiction of the receiving PHA, the receiving PHA must refer the family back to the initial PHA. The voucher of record for the family is once again the voucher originally issued by the initial PHA, and the initial PHA’s policies apply. Any extensions of the initial PHA’s voucher to allow the family additional search time to return to the initial PHA’s jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction.”
- This implies but does not explicitly state that the initial PHA may not extend the term of its voucher once the receiving PHA has issued a voucher unless the receiving PHA refers the family back to the initial PHA. Therefore, the model plan limits extensions of the initial PHA’s voucher term to circumstances under which it is clear that the initial PHA’s voucher is “the voucher of record.”
- The model plan language takes into consideration situations in which the receiving PHA might need to extend the term of the voucher it has issued to the family for purposes of reasonable accommodation. In such situations, the initial PHA simply agrees to accept a late billing from the receiving PHA.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA’s jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA’s jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA’s jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Preapproval Contact with the Receiving PHA

- Decision Point: Which type of confirmed delivery method will the PHA use for preapproval contact with the receiving PHA? (Model plan, p. 10-11)**

Things to Consider

- 24 CFR 982.355(c)(3) requires PHAs to contact the receiving PHA regarding whether it will administer or absorb the family's voucher via email or "other confirmed delivery method." As the notice states, HUD encourages PHAs to use email in order to expedite families' requests.
- Although other "confirmed delivery methods" exist, the process should not be substantially delayed due to this requirement.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will use email, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

- Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Initial Notification to the Receiving PHA

- Decision Point: How will the PHA contact a receiving PHA to alert the receiving PHA to expect an incoming portable family and what information will the PHA request on the family's behalf? (Model plan, p. 10-11)**

Things to Consider

- The portability regulations require the initial PHA to contact the receiving PHA on a portable family's behalf. Given the time-sensitivity of family portability moves, the PHA should establish a policy on the methodology to be used when contacting the receiving PHA, to ensure that the receiving PHA is aware of the incoming family as soon as possible.
- The portability regulations also require the initial PHA to advise the family how to contact and request assistance from the receiving PHA. Notice PIH 2016-09 elaborates on this requirement, noting that "simply referring the family to HUD or a website for information on the receiving PHA's address does not fulfill the responsibilities of the initial PHA under the program regulations." The initial PHA must also advise the family how to contact and request assistance from the receiving PHA (e.g., the name and telephone number of the staff person responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA). This elaboration is reflected in the model plan language.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Sending Documentation to the Receiving PHA



Decision Point: When acting as the initial PHA for a family under portability, what optional information about the family will the PHA provide to the receiving PHA? (Model plan, p. 10-12)

Things to Consider

- When a family ports to another jurisdiction, the initial PHA is required to send the receiving PHA certain documents. The initial PHA has the discretion to send additional information, if available.
- Generally, the purpose of sending additional information would be to help facilitate the family's move and ensure that the receiving PHA has all of the documentation it might need to process the move as quickly as possible. The initial PHA should decide, via policy, what additional information it will provide.
- One critical piece of information to share is whether any member of the family is receiving the earned income disallowance (EID). This benefit remains with the family member whether s/he continues to live in the initial PHA's jurisdiction or moves to another PHA's jurisdiction. As of this writing, there is no provision on form HUD-50058 and no method under the HUD automated system to track the EID benefit during the two 12-month exclusion periods or during the 2448-month maximum eligibility period. Therefore, the HUD-50058 provided by the initial PHA would not necessarily show this information to the receiving PHA. The family has some obligation to report this information to the receiving PHA, but it may not understand the complexities of the EID or may not have maintained accurate records of time elapsed and time remaining. For this reason, the initial PHA may wish to provide EID tracking information to the receiving PHA, as specified in the model plan language.
- HUD requires PHAs to also provide the receiving PHA with a copy of current EIV data for participant families. Since the receiving PHA will not be able to review the EIV data until it has taken control of the family's record in PIC, this practice can alert the receiving PHA to important information such as new employment and receipt of benefits. The initial PHA must have a signed and valid HUD-9886 on file before sending EIV information to the receiving PHA.
- Another key consideration is whether to provide information from a criminal background check. Some states limit the type of criminal background information that may be shared. The model plan language does **not** include criminal background information in the list of additional information to provide. You may wish to add this information to the list of additional information in your policies. If so, you should carefully consider the legal limitations and restrictions on the type and extent of information that may be provided, as well as your PHA's liability in providing the information, controlling the confidentiality of the information, etc. The second option allows for the PHA to insert its own policy language.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

*****Admin updated to reflect language below. Change needed.*****

Social security numbers (SSNs)

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

Documentation of legal identity

Documentation of citizenship or eligible immigration status

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

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Initial Billing Deadline [Notice PIH 2016-09]



Decision Point: When acting as the initial PHA for a portable family, what action will the PHA take if it does not receive the initial billing from the receiving PHA by the deadline specified on form HUD-52665? (Model plan, p. 10-13)

Things to Consider

- The initial billing submission must be received by the initial PHA no later than 90 days following the expiration of the initial PHA's voucher. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.
- Notice PIH 2016-09 places the burden of monitoring the initial billing deadline for a portable family on the initial PHA. It states that the initial PHA is generally not required to honor late billing. If the initial PHA will accept a late billing submission, it is not required to take any action. However, if it does not intend to honor a late billing submission, it must inform the receiving PHA in writing. The notice does not specify a time frame for this contact, which is spelled out in the model plan language.
- The model plan language allows exceptions to the general policy only for purposes of reasonable accommodation. The PHA may wish to allow other exceptions as well.
- A receiving PHA that failed to send the initial billing by the deadline is generally required to absorb the family into its own program. However, HUD may require the initial PHA to accept the late billing in certain cases such as when the receiving PHA does not have funds to support the voucher and the family would be terminated from the program. In such cases, HUD may subsequently transfer units and funding to the initial PHA.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA has not received an initial billing notice from the receiving PHA within the billing deadline, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The PHA will send the receiving PHA a written confirmation of its decision by mail.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

- Decision Point:** Should the PHA require a faster method of payment as long as it is acceptable to the receiving PHA? (Model plan, p. 10-14)

Things to Consider

- The deadline for payment to reach the receiving PHA is very tight. Therefore, the initial PHA may wish to establish a faster method of payment to ensure the deadline is met.

- Option 1:* Use the model plan language shown below. No changes to the model plan are needed.

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

- Option 2:* Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. **No policy decisions are required.**

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

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

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10-II.C. RECEIVING PHA ROLE

The provisions in this section apply when the PHA is acting as the receiving PHA for a family moving into the PHA's jurisdiction from the jurisdiction of another PHA (the initial PHA) under the portability procedures. The portable family may be a participant family that has been receiving voucher assistance in the initial PHA's jurisdiction, or it may be a family that has been issued a voucher but has not yet been admitted to the program. The rules for participant families and applicant families differ in some ways; therefore, the policies adopted for these families in some cases necessarily are different.

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



Decision Point: Which type of confirmed delivery method will the PHA use to respond to the initial PHA's inquiry as to whether the family's voucher will be billed or absorbed? (Model plan, p. 10-15)

Things to Consider

- As is the case for preapproval contact by the initial PHA, 24 CFR 982.355(c)(3) requires receiving PHAs to in turn respond to initial PHAs' requests via email or "other confirmed delivery method." For the response, HUD once again encourages PHAs to use email in order to expedite families' requests.
- Remember, although other "confirmed delivery methods" exist, the process should not be substantially delayed due to this requirement.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will use email, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Initial Contact with Family

No policy decisions are required.

Briefing



Decision Point: Will the receiving PHA require an incoming portable family to attend a briefing? (Model plan, p. 10-16)

Things to Consider

- The portability regulations do not require the receiving PHA to brief an incoming portable family. However, as the *HCV Guidebook* notes, an incoming portable family “will need to be informed about the receiving PHA’s policies and payment standards before it begins its search” [HCV GB, p. 13-5].
- Notice PIH 2016-09 states unequivocally that “HUD expects the receiving PHA to process the family’s paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures.” For example, it is unacceptable for the receiving PHA to delay processing the family’s paperwork and issuing a voucher because it wishes the family to attend a group briefing that is not scheduled for three weeks.
- Since the family needs time to locate a unit, the receiving PHA could issue a voucher and provide a briefing packet to the family. The family could then elect to attend a more formal briefing later.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not require the family to attend a briefing. The PHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the PHA’s payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The PHA will suggest that the family attend a full briefing at a later date.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Income Eligibility and Reexamination



Decision Point: Will the PHA conduct a full reexamination of family income and composition for families moving into its jurisdiction under portability? (Model plan, p. 10-16)

Things to Consider

- A family must be income eligible for admission to the voucher program, but once the family has been admitted, no income limits apply. Therefore, income eligibility is an issue under the portability procedures only for applicant families. The responsibility for determining whether a portable applicant family is income eligible for admission to the voucher program in the receiving PHA's jurisdiction rests with the initial PHA. However, if the receiving PHA's jurisdiction includes more than one income area, the receiving PHA will need to confirm that the family is income eligible in the area where the family leases a unit [24 CFR 982.201(b)(4), 24 CFR 982.353(d)(3)].
- The receiving PHA is permitted, but not required, to conduct a new reexamination of income and composition for any incoming portable family, but it may not delay issuing the family a voucher or otherwise delay approving a unit for the family unless the reexamination is necessary to determine income eligibility [24 CFR 982.355(c)(11)]. The PHA may take subsequent action against the family based on the results.
- When a family moves from one area to another, the family's income may very well change. Therefore, the income information provided by the initial PHA may not be accurate. If the receiving PHA relies upon inaccurate information to determine the family's total tenant payment (TTP), the receiving PHA may pay a higher or lower subsidy than required for the family.
- If the PHA elects to conduct a new reexamination for all incoming portable families, it is not prohibited from relying upon verifications provided by the initial PHA for income and expense information that has not changed. In such cases, however, the PHA should establish a standard on the timeliness of the verifications (e.g., they must be dated within the last 120 days).

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Delete the model plan language and substitute the language below.

The PHA will rely upon the income information provided by the initial PHA and will not conduct a new reexamination of income and composition for incoming portable families.



Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Voucher Issuance

In its policies on voucher issuance for incoming portable families, the receiving PHA has decisions to make in three areas: timing, term, and extensions.

Timing of Voucher Issuance



Decision Point: When will the receiving PHA issue an incoming portable family a voucher? (Model plan, p. 10-17)

Things to Consider

- Notice PIH 2016-09 says that HUD “expects” the receiving PHA to issue an incoming portable family a voucher “within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures.”



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When a family ports into its jurisdiction, the PHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family’s paperwork from the initial PHA is incomplete, the family’s voucher from the initial PHA has expired or the family does not comply with the PHA’s procedures. The PHA will update the family’s information when verification has been completed.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Voucher Term



Decision Point: When will the voucher that the receiving PHA issues to an incoming portable family expire? (Model plan, p. 10-17)

Things to Consider

- The term of the receiving PHA's voucher may not expire before 30 days from the expiration date of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher. If the receiving PHA is able and willing to absorb the family, the expiration date is not critical. However, if the receiving PHA intends to administer the family's assistance, then it must consider the initial billing deadline.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]



Decision Point: Will the receiving PHA allow any extensions to vouchers that it issues to incoming portable families? (Model plan, p. 10-17)

Things to Consider

- The receiving PHA's policy on whether to extend vouchers issued to incoming portable families should be based on the same considerations as its decision on voucher term. The policy need not be the same as the PHA's policy on voucher extensions in Chapter 5 as long as families are aware of the difference.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

Regulations now require PHAs to suspend the term of the voucher from the date the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied.

No policy decisions are required.

Notifying the Initial PHA

This section describes the requirement for the receiving PHA to promptly notify the initial PHA when the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher.

No policy decisions are required.

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Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)(3)]

The receiving PHA bills the initial PHA the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee). For mid-month moves, if the effective date of the HAP is on a date other than the first of the month, the receiving PHA may not bill for administrative fees for that month.

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



Decision Point: How will the receiving PHA handle portability billing? (Model plan, p. 10-18)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Initial Billing Deadline



Decision Point: How will the receiving PHA send initial billing information for a portable family to the initial PHA? (Model plan, p. 10-19)

Things to Consider

- If the receiving PHA intends to administer an incoming portable family's assistance, it must send its initial billing information to the initial PHA in time to meet the deadline specified in Notice PIH 2016-09 and on form HUD-52665. Notice PIH 2016-09 allows the PHA to submit the billing information by fax or email. The model plan language establishes a policy saying that the PHA will use one of these methods when necessary but, if it does, it will also send the information by regular mail.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Things to Consider

- If the receiving PHA is administering a portable family's assistance, Notice PIH 2016-09 states that "the receiving PHA must send the initial PHA a copy of the updated form HUD-50058 at each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family...regardless of whether there is a change in the billing amount. A copy of form HUD-50058 must also accompany the submission of a portability form (HUD-52665) reporting any changes in the billing amount." The purpose of this notification is to serve as an annual "reconciliation" to assist both PHAs in fulfilling their accounting and record-keeping responsibilities.
- The receiving PHA must send the updated HUD-50058 to the initial PHA no later than 10 business days from the effective date of the reexamination.
- The model plan establishes a policy stating when and how the receiving PHA will fulfill this responsibility. HUD strongly encourages the receiving PHA to send this information as soon as the family's reexamination is complete.



Decision Point: When and how will the receiving PHA send a portable family's updated form HUD-50058 each year to the initial PHA? (Model plan, p. 10-19)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will send a copy of the updated HUD-50058 by regular mail no later than 10 business days after the effective date of the reexamination.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Late Payments [Notice PIH 2016-09]

This section describes the consequences if the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month. **No policy decisions are required.**

Overpayments [Notice PIH 2016-09]

This section describes the responsibility of the receiving PHA to return the full amount of any overpayment (including the portion provided for administrative fees) to the initial PHA, in cases where they have received billing payments for billing arrangements no longer in effect.

No policy decisions are required.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Denial or Termination of Assistance



Decision Point: How will the receiving PHA handle denials or terminations of assistance for portable families, including informal reviews or hearings and notification to the initial PHA? (Model plan, p. 10-22)

Things to Consider

- The receiving PHA has the authority to deny or terminate assistance for a portable family at any time, in accordance with its own policies, should any of the regulatory criteria at 24 CFR 982.552 or 982.553 apply to the family. When a decision to deny or terminate assistance is made, the receiving PHA must conduct an informal review or hearing for the family.
- If the receiving PHA terminates the assistance of a portable family for which it has been billing the initial PHA, it is required to report the change in the billing amount to the initial PHA within 10 business days.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

Absorbing a Portable Family [24 CFR 982.355(d)(1), Notice PIH 2016-09]



Decision Point:

If the PHA decides to absorb a portable family, when will it notify the initial PHA?
(Model plan, p. 10-22)

Things to Consider

- This section of the administrative plan explains when and under what conditions the receiving PHA may absorb a portable family into its own program. The model plan language simply establishes time frames for notifying the initial PHA.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 10: Moving with Continued Assistance and Portability

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
(2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
 Yes. Edits only. Edit and insert PHA language as appropriate.
 Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
 Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 11: Reexaminations

INTRODUCTION

This chapter contains the PHA's policies for conducting reexaminations. These policies are contained in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

This section explains the requirement for a PHA to conduct a reexamination of family income and composition at least annually, and the need for policies governing the annual reexamination process. **No policy decisions are required.**

11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The PHA must compare the amount of income from the fixed source to the amount generated during the prior year. If the amounts are the same or if they have changed only as a result of the COLA or other rate of interest generated on the principal amount that remained otherwise constant, the amount is fixed. The PHA must document the tenant file how it made the determination that a source of income is fixed. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income ~~and may choose whether~~ but is not required to verify non-fixed income amounts ~~in years where no fixed income review is required~~. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

Instructions for Preparing Chapter 11: Reexaminations



Decision Point: Will the PHA streamline the income determination process for family members with fixed sources of income? (Model plan, p. 11-2)

Things to Consider

- The options for streamlining the annual reexamination process are intended to reduce administrative burden by eliminating the need for third-party verification in some situations.
- For example, a client who receives a pension may receive an updated award letter only once per year. A streamlining policy would allow the PHA to apply a verified COLA to the pension amount, eliminating the need for third-party verification dated within 60 days of the reexamination or the request.
- PHAs that adopt streamlined income determinations for fixed sources of income must still obtain family member signatures on the consent forms required by 24 CFR 5.230.
- Option 1 states that the PHA will streamline the income determination process for fixed sources of income.
- For ease of administration, Option 1 states that income from non-fixed sources will be verified annually regardless whether the family receives 90 percent or more of its income from fixed sources.
- Since streamlining policies are optional, Option 2 states that the PHA will instead obtain third-party verification of fixed income annually.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The PHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the PHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the PHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

Instructions for Preparing Chapter 11: Reexaminations

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA chooses not to streamline the annual reexamination process for fixed-income sources. The PHA will obtain third-party verification of all sources of income annually.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently

- Decision Point: When will annual reexaminations take place? (Model plan, p. 11-3)**

Things to Consider

- The model plan states that the annual reexamination process will begin 120 days in advance of its scheduled effective date, which generally will coincide with the family's anniversary date. In order to make sure that current information is used, the process should not be started any earlier. However, PHAs with shorter processing times may choose to begin the process closer to the scheduled effective date.
- The model plan defines anniversary date to facilitate the discussion of effective dates.
- There is no requirement to conduct an annual reexamination when the family moves to a new unit (see Option 2). However, many PHAs do so in order to coordinate the next annual reexamination with the anniversary date of the HAP contract. For this reason, the model plan states that if a move takes, a new reexamination date will be established to coincide with the effective date of the HAP contract. Because program requirements allow owners to request increases in rent at any time (in accordance with the lease), it is not crucial for the HAP contract effective date to coincide with the reexamination effective date, and your PHA may choose not to include this policy.

Instructions for Preparing Chapter 11: Reexaminations

- HUD guidance permits the PHA to schedule an annual reexamination to take effect earlier than the anniversary date for administrative convenience (for example, to balance workloads). This is stated as a PHA policy to make clear that if the PHA exercises this option, it will result in an exception to the general rule that effective dates coincide with anniversary dates.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the PHA will perform a new annual reexamination.

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.



Option 2: Delete model plan language and substitute language as shown below.

The PHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the PHA will not perform a new annual reexamination

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 11: Reexaminations

Notification and Participation in the Reexamination Process

The PHA must establish a policy indicating how annual reexaminations will be conducted, and if attendance at an interview is required, which family members must attend.



Decision Point: Will the PHA require annual reexamination interviews, and if so who will be required to attend? (Mode31 plan, p. 11-3)

Things to Consider

- Although reexamination interviews are not mandated by HUD, most PHAs require the head of household, spouse, or cohead to attend such an interview. If interviews are required, the PHA must offer alternative arrangements for participants who are unable to attend due to a disability. This is the approach included in the model plan.
- If your PHA conducts reexaminations by mail, you should select Option 2, which specifies the policies that would govern the notification and response process. In addition to describing the mail-in approach, Option 2 indicates that the PHA will schedule in-person interviews if the family does not respond to the mailed reexamination notice, if the documentation provided to the PHA is incomplete, or if the family requests assistance.
- PHAs may choose to conduct reexaminations by mail for some participants and in person for others. For example, the PHA's policy could state that reexaminations will be conducted by mail for elderly or disabled participants, or for participants with specified income sources (for example, participants whose only source of income is Social Security/SSI or TANF). Because such a policy would be PHA-specific, no model language is provided for this approach.
- For administrative ease and consistency the policies regarding notification, undeliverable notices, and failure to appear at reexamination interviews are consistent with similar policies elsewhere in the model plan (e.g. eligibility interviews, briefings). If you make changes to these policies in this chapter, you may want to consider making them in other chapters as well.

Instructions for Preparing Chapter 11: Reexaminations



Option 1: Use the model plan language shown below. No changes to the model plan are required.

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the PHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the PHA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

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

Instructions for Preparing Chapter 11: Reexaminations

- Option 2: Delete model plan language and substitute language as shown below if your PHA conducts annual reexaminations by mail.*

Annual reexaminations will be conducted by mail. Notification of the annual reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the PHA, and the deadline for providing it. Documents will be accepted by mail, by email, by fax, or in-person.

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

An interview will be scheduled if the family requests assistance in providing information or documentation requested by the PHA.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the PHA will send a second notification with a new interview appointment time.

Families that fail to attend two scheduled interviews without PHA approval will be sent a notice of termination in accordance with policies contained in Chapter 12.

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

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS



Decision Point: What policies govern completion and submission of required forms and tenant-supplied documents during the reexamination process? (Model plan, p. 11-4)

Things to Consider

- The model plan does not contain a list of specific information or documents the family will be required to complete as part of the annual reexamination process, other than to say the family must submit a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, and supporting documentation related to the income, expenses, and family composition declared by the family. Although a more complete list of documents could be added to the plan, this is not advisable, since the complete list of required documents may change over time, and will be provided in the notification to the family.
- For administrative ease and consistency, the policy regarding the number of days a family has to provide required documents they were unable supply at the time of the interview (10 business days) is consistent with similar policies elsewhere in the model plan (e.g. eligibility interviews, briefings)
- The model plan allows the PHA to extend the family’s deadline for providing information. The policy does not specify how many requests will be allowed and under what circumstances an extension will be granted. This is to allow the PHA flexibility in handling the requests on a case-by-case basis. Extension criteria could be added if a PHA so chooses.
- See Option 2 if your PHA conducts annual reexaminations by mail.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

*****Admin updated to reflect language below. Change needed.*****

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family’s income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

Instructions for Preparing Chapter 11: Reexaminations

- Option 2: Delete the model plan language and substitute the language shown below if your PHA conducts annual reexaminations by mail.*

Families will be asked to supply all required information (as described in the reexamination notice) before the deadline specified in the notice. The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

The PHA will notify the family in writing if any required documentation or information is missing. The missing information or documentation must be provided within 10 business days of the date the PHA notifies the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

If the family requests or the PHA schedules an in-person interview, families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 11: Reexaminations



Decision Point: Will the PHA screen at annual reexaminations for lifetime registered sex offenders? (Model plan, p. 11-4)



Option 1: Use the model plan language shown below. No changes to the model plan are required.

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

- Decision Point:** How will the PHA determine the ongoing eligibility of students that are subject to the eligibility restrictions contained in 24 CFR 5.612? (Model plan, p. 11-6)

Things to Consider

- The PHA must ensure at each annual reexamination that all students subject to the restrictions on assistance remain income eligible.

- Option 1: Use the model plan language shown below. No changes to the model plan are required.*

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

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

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

Instructions for Preparing Chapter 11: Reexaminations

11-I.F. EFFECTIVE DATES

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



Decision Point: How will the PHA determine the effective dates for annual reexaminations? (Model plan, p. 11-7)

Things to Consider

- The model plan assumes that 30 days can be considered adequate notice. However, state and local laws may require notice of more than 30 days for rent increases. If this is the case in your state, you will need to edit the model plan accordingly.
- The model plan also accounts for the fact that the effective date of a change will not always be based on the anniversary date.
- The final point in the model plan addresses how the PHA will determine whether any delay in processing a reexamination was caused by the family.
- If your PHA does not conduct annual reexaminations when a family moves to a new unit, select Option 2. This option simply deletes the exception to annual reexamination effective dates as a result of a move.

Instructions for Preparing Chapter 11: Reexaminations



Option 1: Use the model plan language shown below. No changes to the model plan are required.

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

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

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

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

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

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

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

Instructions for Preparing Chapter 11: Reexaminations



Option 2: Delete the model plan language and substitute the language shown below if your PHA does not conduct annual reexaminations when a family moves to a new unit.

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

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

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

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

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

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 11: Reexaminations

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

This section explains that HUD requires the family to report changes in family circumstances and requires the PHA to conduct interim reexaminations in certain situations. HUD also requires the PHA to establish policies concerning whether to conduct interim reexaminations in other situations. **No policy decisions are required.**

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION



Decision Point: Will the PHA conduct interim reexaminations for all changes in family composition that occur between annual reexaminations? (Model plan, p. 11-9)

Things to Consider

- At any time, the PHA may conduct an interim reexamination of family income and composition.
- At any time, the family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must make the interim determination within a reasonable time after the family request. (24 CFR 982.516 (b)(1).
- The Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The rule did not, however, eliminate the requirement to verify other aspects of program eligibility.
- Option 1 states that the PHA will conduct a full interim reexaminations for all changes in family composition so that the PHA will know whether the unit is overcrowded due to changes to family composition.
- If the PHA does not wish to conduct a reexamination of income whenever a new family member is added, select Option 2.
- If the PHA selects Option 2, families who add a family member under the age of 6 are entitled to receive the dependent deduction even if the PHA does not conduct an interim recertification of income at the time the child is added. Therefore Option 2 states that the PHA will conduct a reexamination in this case (24 CFR 5.216(e)(2)(ii)(B)).

Instructions for Preparing Chapter 11: Reexaminations



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.



Option 2: Delete model plan language and substitute language as shown below.

The PHA will not conduct a reexamination of income when a new family member is added. However, the PHA will verify all other aspects of program eligibility when the family requests to add a new member.

However, if the new member is under the age of 6, an interim reexamination will be conducted so that the family member may be counted as part of the assisted household and given the dependent deduction.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 11: Reexaminations

New Family Members Not Requiring PHA Approval



Decision Point: When must families report the birth, adoption, or court-awarded custody of a child? (Model plan, p. 11-9)

Things to Consider

- For administrative ease and consistency, the policy regarding how long the family has to notify the PHA of the birth, adoption, or court awarded custody of a child is consistent with similar policies elsewhere in the model plan (10 business days).
- If you change the policy here, you will also need to change the policy in Section 5-I.C.

*****Current Admin language reflected below for the purpose of this form. No changes needed.*****



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The family must inform the PHA of the birth, adoption, or court-awarded custody of a child within 10 calendar days.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

New Family and Household Members Requiring Approval



Decision Point: How will the PHA treat requests to add a family or household member who must be approved by the PHA? (Model plan, p. 11-10)

Things to Consider

- The model plan states that families must request permission to add a new family member when someone's stay in the unit is expected to exceed the time frames that define what constitutes a guest. The policy is based on the definition of *guest* developed in Chapter 3. If a PHA chooses to change the definition of *guest* in Section 3-I.J, the changes will need to be reflected in this section.
- The model plan requires families to request approval for new household members (live-in aide, foster child, foster adult) to reside in the unit but establishes a different standard for disapproving foster children and foster adults (based on HQS space standards) than for family members and live-in aides. The addition of a foster child or foster adult will not be approved if it will cause a violation of HQS space standards, whereas if the addition of a new family member or live-in aide causes a violation of HQS space standards, the family will be issued a voucher and required to move.
- Section 3-I.K., "Foster Children and Foster Adults," includes a similar policy on the approval of foster children and adults. If changes are made to the policy here, changes must also be made to the policy in 3-I.K.

Instructions for Preparing Chapter 11: Reexaminations

- The addition of a new family member or live-in aide could result in overcrowding according to HQS standards. The model policy states that the family will be informed of any such problem when the new family member is approved. If the PHA will use a separate process for informing the family of the problem, the model plan should be amended to reflect that policy.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

Families must request PHA 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 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the PHA determines an individual meets the PHA’s eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA’s eligibility criteria or documentation requirements, the PHA 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 PHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Families must request PHA and Owner 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 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

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The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA 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 PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility

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Departure of a Family or Household Member



Decision Point: When must the family report that a family member no longer resides in the unit? (Model plan, p. 11-11)

Things to Consider

- For administrative ease and consistency the policy regarding notification of a family member no longer residing in the assisted unit, is consistent with similar policies elsewhere in the model plan (10 business days).
- If you change the policy here, you will also need to change the policy in Section 5-I.C.

*****Current Admin. language added below for the purpose of this form. No changes to the Admin. needed.*****



Option 1: Use the model plan language shown below. No changes to the model plan are required.

If a household member ceases to reside in the unit, the family must inform the PHA within 10 calendar days. This requirement also applies to family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

~~If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the PHA within 10 business days.~~



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

PHA-Initiated Interim Reexaminations



Decision Point: In what circumstances will the PHA initiate interim reexaminations? (Model plan, p. 11-12)

Things to Consider

- Although PHAs may conduct an interim reexamination at any time, the PHA should establish criteria for conducting PHA-initiated interim reexaminations to ensure that families are treated consistently.
- The model plan identifies five instances in which the PHA will initiate an interim reexamination, none of which are triggered by changes reported by the family.
 - EID Families: The model plan ensures that the family receives the benefit of the exclusion amounts for the amount of time they are entitled to under the law.
 - Zero-Income Families: The model plan institutes a fairly aggressive policy for reexamining the income of families who claim to have no income. In determining what type of policy to adopt relative to zero-income families, a PHA should consider the number of zero-income families in the PHA's HCV program, whether or not the policy of more frequent reexaminations is likely to reduce PHA subsidy amounts, and whether the amount saved in subsidy costs will be offset by the increased administrative costs.
 - Difficulty Anticipating Annual Income: The model plan states that the PHA will conduct interims if the PHA is unable to anticipate annual income for the next 12 months. This policy puts the burden on the PHA to schedule a reexamination in these cases, rather than requiring the family to report changes when they occur.

If a PHA wants to shift this burden to the family, policies under PHA-initiated interims, as well as family-initiated interims will need to be revised. The challenge will be making sure the reporting requirement is clearly understood by those affected, particularly if, the PHA does not generally require families to report increases in income between annuals.
 - Updating Provisional Documents: If third-party verification is received after an annual reexamination was already processed, the PHA must conduct an interim, considering the new data. Therefore, the model plan includes this circumstance as a PHA-initiated interim.
 - Error Correction: The model plan clarifies that if the PHA needs to conduct an interim to correct a previous error, or to investigate a tenant fraud complaint, the PHA may initiate an interim reexamination.

Instructions for Preparing Chapter 11: Reexaminations



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The PHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.

If the family has reported zero income, the PHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income); the PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification is now available, the PHA will conduct an interim reexamination.

The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

The first category of family-initiated interims is one that results from changes the family is required to report.

The PHA may require families to report some, all, or none of the changes in income or expenses that would result in a rent increase.



Decision Point: When will the family be required to report changes in income between annual reexaminations? (Model plan, p. 11-13)

Things to Consider

- The model plan only requires families to report increases in earned income, including new employment. Although this policy requires everyone to report these changes, the model plan also states that interims will be conducted only when an EID family is involved. This policy will ensure that families who qualify for the earned income disallowance (EID) are identified, and that the PHA is able to accurately calculate the family's income and rent throughout both the full and partial exclusion periods.
- It is important to note that if a PHA adopts a policy of only conducting interims for increases in income for EID families, **the same policy must be adopted in the ACOP for the PHA's public housing program**. See RHIIP Rental Integrity Summit FAQ, Question 37 for more information.
- Although the increases in income will not affect non-EID families, the information that is gathered may be useful to help PHAs establish historical income data for families. This could help identify families that have a pattern of working most of the year, but never seem to be working at the time of their annual reexamination. PHAs could then use this historical data to anticipate annual income at the family's next annual reexamination.
- A PHA that wants to conduct interim reexaminations for all changes in income (earned and unearned, EID and non-EID families) should:
 - Consider the administrative costs of processing interim reexaminations versus the cost savings of reductions to the HAP
 - Consider which interim changes are likely to result in large increases in the family share of rent (and large reductions in subsidy)
 - Ensure that the policy can be easily understood by participants and staff members.

Instructions for Preparing Chapter 11: Reexaminations

- The following list of examples is intended to illustrate the wide variety of interim policies the PHA could establish, but PHAs are not limited to these options. The PHA could require interim reexaminations:
 - Whenever an increase in income would increase the family share of rent
 - When the family’s monthly income increases by a specified dollar amount
 - When the family’s source of income changes from unearned to earned
 - When a family which previously reported no income obtains a source of income

*****Current Admin. language added below for the purpose of this form. No changes to Admin. are needed.*****



Option 1: Use the model plan language shown below. No changes to the model plan are required.

Families are required to report all increases in earned income, including new employment, within 10 calendar days of the date the change takes effect.

For all required reporting purposes, if the due date falls on weekend, holiday, or due to the office being closed due to unforeseen conditions requires information will be due on the following business day.

The PHA will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family’s share of rent will change as a result of the increase. In all other cases, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income.



Option 2: Delete model plan language and substitute language as shown below.

Families are required to report all increases in income within 10 business days of the change occurring. The PHA will conduct an interim reexamination to recalculate the new family share of rent and new subsidy amount.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Optional Reporting

The second category of family-initiated interims is one that results from changes the family chooses to report even though HUD requirements and PHA policies do not require it. HUD requires PHAs to process interims that will result in a decrease in the family share of rent.



Decision Point: How will the PHA process family-reported changes in income or expenses between annual reexaminations, when there is no requirement to report these changes? (Model plan, p. 11-13)

Things to Consider

- If a family reports a change it is not required to report, the policy should clearly state under what circumstances the PHA will or will not conduct an interim reexamination based on the information reported by the family.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the PHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

If the family reports a decrease/loss that will not last 30 consecutive days, the PHA will not conduct an interim reexamination. See Section 11-II.D. for effective dates.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 11: Reexaminations



Decision Point: How long does a family have for reporting changes that it is not required to report? (Model plan, p. 11-13)

Things to Consider

- The model plan does not provide a time frame for reporting changes that the family is not required to report. Therefore, the effective date of any decrease will be associated with the date the change was reported, not the date the change occurred.
- Some PHAs require decreases in income to be reported by a certain day of the month in order for a change in the family's share of the rent to take effect on the first day of the following month. Changes reported after that day do not take effect until the first of the second month following the reported change. This approach allows the PHA more time to process the interim, and may eliminate the need for retroactive effective dates. However, PHAs should consider the impact this type of policy will have on a family that has lost its income and will have to wait an additional month to have their rent reduced.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

Families may report changes in income or expenses at any time.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

This section discusses policies related to how the family must report changes, and the time frames for providing information the PHA may require.

Method of Reporting



Decision Point: How should the family report changes? (Model plan, p. 11-14)

Things to Consider

- Most PHAs try to streamline the interim reporting process in order to minimize the burden placed on either families or staff. The model plan takes this approach by allowing families to report changes either orally or in writing. However, in certain circumstances, the PHA may need to require that the family submit documentation or attend an interview. The model policy allows for these steps, at the PHA's discretion.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 11: Reexaminations



Decision Point: How must the family document the changes? (Model plan, p. 11-14)

Things to Consider

- The specific documentation that will be required will depend on the type of change the family reports and whether or not it is expected to change the family share of the rent.
- Once the family has reported the change, the model plan puts the burden on the PHA to request from the family the specific information that is needed to complete the interim.
- For administrative ease and consistency, the time frame that a family will be given to submit PHA-required documents is consistent with similar policies elsewhere in the model plan (10 business days).

*****Current Admin. language added below for the purpose of this form. No changes to the Admin. needed. *****



Option 1: Use the model plan language shown below. No changes to the model plan are required.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 calendar days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, by email, by fax, or in person.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 11: Reexaminations

Effective Dates



Decision Point: How will the PHA determine the effective dates for interim reexaminations? (Model plan, p. 11-14)

Things to Consider

- The PHA must establish policies for determining the effective dates of interim reexaminations and the policies must be applied uniformly for all families. The model plan assumes that 30 days can be considered adequate notice. However, state and local laws may require notice of more than 30 days for rent increases. If this is the case in your state, you will need to edit the model plan accordingly.
- If a PHA requires interim decreases to be reported by a certain day of the month in order to be considered “timely” this policy will need to be amended to explain the impact that untimely reporting will have on decreases in the family share of rent.



Option 1: Use the model plan language shown below. No changes to the model plan are required.

If the family share of the 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 frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the 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 all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 11: Reexaminations

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

Most of the information in this part is required by regulation and requires no PHA policy decisions.

11-III.A. OVERVIEW

This section explains the requirement for PHAs to recalculate family share and subsidy amount, and to provide notice to the owner and family of these changes. **No policy decisions are required.**

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

Payment Standards [24 CFR 982.505]

This section explains how changes in payment standards are to be considered when processing interim and annual reexaminations. **No policy decisions are required.**

Subsidy Standards [24 CFR 982.505(c)(4)]

This section explains how changes in family unit size must be considered when processing interim and annual reexaminations. **No policy decisions are required.**

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5].



Decision Point: At which reexamination will revised utility allowances be applied, interim or annual? (Model plan, p. 11-16)

Things to Consider

- The regulations state that the PHA must use the current utility allowance schedule at reexamination. They do not specify annual or interim reexamination.
- The HCV Guidebook states that revised allowances will be used to calculate a family's gross rent at its next annual reexamination.
- The model plan adopts the safe harbor language from the HCV Guidebook and states that revised utility allowances will be applied at the first annual reexamination that is effective after the allowance is adopted.
- A PHA could choose to use an updated schedule at interim reexamination. However, if this decision is made, changes in payment standards and utility allowances will be implemented at different times because the payment standard effective dates are regulatory.

Instructions for Preparing Chapter 11: Reexaminations

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted [HCV GB, p. 18-9].

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The HAP contract requires the PHA to notify the owner and family of any changes in the housing assistance payment.

- Decision Point: Will the notification to the family regarding new family share and HAP amount include any additional information? (Model plan, p. 11-16)**

Things to Consider

- The HCV Guidebook states that the notice should include the amount and effective date of the new HAP payment, the amount and effective date of the new family share of the rent, and the amount and effective date of the new tenant rent to owner.
- Although it is not required, it is good practice to include in the notice to the family the annual and adjusted income that was used to calculate the family share of the rent. The model plan includes such a policy.

- Option 1: Use the model plan language shown below. No changes to the model plan are required.*

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. ~~The notice also will state the procedures for requesting an informal hearing.~~

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

11-III.D. DISCREPANCIES

This section explains that when errors resulting in the overpayment or underpayment of subsidy are discovered, they will be corrected in accordance with the policies contained in Chapter 13.

No policy decisions are required.

Instructions for Preparing Chapter 11: Reexaminations

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan. Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 11: Reexaminations

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

INTRODUCTION

This chapter contains the PHA's policies for mandatory and optional termination of assistance and termination of tenancy. These policies are contained in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

This section explains that assistance can be terminated either voluntarily or involuntarily. **No policy decisions are required.**

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.



Decision Point: How will the PHA treat changes in family circumstances that occur within this 180 day period, and when must families report these changes? (Model plan, p. 12-1)

Things to Consider

- The regulation bases the termination requirement on the date a payment was last made on behalf of the family. This policy simply clarifies that a change in family circumstances must not only occur, but also must be reported to the PHA within that 180 day period, in order for housing assistance payments to resume.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

12-I.C.FAMILY CHOOSES TO TERMINATE ASSISTANCE

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



Decision Point: Will the PHA specify how the family should inform the PHA when the family wishes to terminate assistance? (Model plan, p. 12-2)

Things to Consider

- The model plan specifies how the family should notify the PHA. Even though the PHA has no way to enforce this policy, it makes sense for the PHA to encourage a responsible family member to submit a signed, written request before instituting a voluntary termination. Having the policy in the administrative plan will help staff know what to tell families.
- Section 12.II-F. stipulates that the PHA must provide written notice whenever it terminates a family's assistance. However, it might not be evident that notice would be required in a case where the family has requested the termination. The clarification here helps ensure that notice requirements will be followed in all situations.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the circumstances listed below. The model plan suggests a local policy related to evictions, but not for the other circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The PHA 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. As discussed further in section 12-II.E of the model plan, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.



Decision Point: If a family leaves its unit before a court decision has been made, or before the decision is enforced by law enforcement officials, will the PHA terminate the family's assistance? (Model plan, p. 12-2)

Things to Consider

- A family may leave an assisted unit while an eviction request is being considered by the court or after the decision is made by the court but before the decision is enforced. In either case, the family will have left the unit without physical eviction by law enforcement officials. The model plan clarifies that physical removal is not required; a court decision qualifies as an eviction. If a family leaves an assisted unit before a court decision is made, no eviction will have taken place. However, the model plan emphasizes that the PHA may still take action against the family based on the lease violations that triggered the eviction process.
- The reason for termination of assistance only relates to “serious or repeated violation” of the lease, not simply for a violation of the lease. Therefore, the PHA must review each case to determine whether the circumstances would be classified as a “serious or repeated violation.”
- To help ensure consistency in PHA decisions, this policy provides examples of serious and repeated violations and also establishes a general criterion for the PHA to use when determining whether lease violations are serious and repeated.
- The definition of *serious and repeated lease violations* is also included in section 5-I.C. and Exhibit 12-1. If any changes are made to the definition here, they must also be made in Chapters 5 and 12.
- You should consult with your attorney to determine if any state law or tenant-landlord ordinance would affect this policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, the PHA will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. **No policy decisions are required.**

Failure to Document Citizenship [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)]

The PHA must terminate assistance if the family fails to submit required documentation concerning any family member's citizenship or eligible immigration status within required timeframes; USCIS primary and secondary verification does not verify eligible immigration status of the family; or a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. **No policy decisions are required.**

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

The PHA must terminate assistance if a participating family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.



Decision Point: Under what circumstances will the PHA defer a family's termination and provide an additional 90-day period to comply with the SSN disclosure and documentation requirement? (Model plan, p. 12-3)

Things to Consider

- 24 CFR 5.218(c)(2) states that the PHA may defer termination and grant the participant an additional 90-day period to disclose an SSN, but only if the PHA determines that the reason individual was unable to comply was due to circumstances that could not have reasonably been foreseen and were outside of the family's control *and* there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.
- Notice PIH 2018-24 gives examples of such circumstances with regards to addition of a new household member. These include, but are not limited to delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, etc. The default policy both lists specific examples and leaves room for other circumstances to be considered.
- Your PHA may want to consider other PHA policies where time extensions are granted for circumstances beyond the family's control.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

PHA Policy

The PHA 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 participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing. **No policy decisions are required.**

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household. No policy decisions are required.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not a person with disabilities receiving HCV assistance as of November 30, 2005, and is not residing with his/her parents in an HCV assisted household, the PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit. **No policy decisions are required.**

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-3]

The PHA must immediately terminate program assistance for deceased single member households. **No policy decisions are required.**

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA's administrative plan to establish policies that permit the PHA to terminate assistance for certain types of offenses, including:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

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Use of Illegal Drugs and Alcohol Abuse



Decision Point: What policies will the PHA establish relative to terminating assistance when household members are engaged in drug use or alcohol abuse, or have a pattern of drug use or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents? (Model plan, p. 12-5)

Things to Consider

- Although the policy states that the PHA will terminate assistance when a household member's use or pattern of use of illegal drugs or alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate assistance.
- To ensure consistency in the way staff handle terminations, the term *currently engaged in* should be defined. You may wish to consult with your attorney to determine whether any state laws or tenant-landlord ordinances require the use of another definition. This same definition is contained in Chapter 3. If you choose to change the definition here, it may also need to be changed in Section 3-III.B.
- To allow for both consistency and flexibility, the model plan gives examples of evidence, but does not limit evidence to these categories.
- If your PHA has established specific indicators or types of evidence to determine whether or not someone is engaging in drug use or alcohol abuse, the model plan language should be replaced or edited, to contain this information.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The PHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record ~~or records~~ of arrest(~~s~~) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Drug-Related and Violent Criminal Activity [24 CFR 5.100]



Decision Point: What policies will the PHA establish relative to terminating assistance when household members have violated the family obligation not to engage in drug-related or violent criminal activity? (Model plan, p. 12-6)

Things to Consider

- Although the policy states that the PHA will terminate assistance when a household member violates the family obligations not to engage in drug-related or violent criminal activity, the policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate assistance.
- To allow for both consistency and flexibility, the model plan gives examples of evidence, but does not limit evidence to these categories.
- If your PHA has established specific indicators or types of evidence to determine whether or not someone has engaged in drug-related or violent criminal activity, the model plan language should be replaced or edited, to contain this information.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record or records of arrest(~~s~~) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E of the model administrative plan, the Violence against Women Act of 2013 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.



Decision Point: Under what circumstances will the PHA choose to terminate assistance? (Model plan, p. 12-7)

Things to Consider

- The model plan states that the PHA will terminate assistance for all the reasons listed under 24 CFR 982.552(c) (including the violation of any family obligations) with the exception of failure to meet obligations under the FSS program as prohibited under the alternative requirements set forth in FR Notice 12/29/14. For a family that has been engaged in criminal activity, the issue is addressed under criminal activity, rather than in this section. If a PHA does not want to terminate assistance based on each of these criteria, the plan will have to be edited accordingly.
- The model plan includes a definition of abusive or violent behavior toward PHA personnel. This language matches language used in Chapter 3. If you choose to edit this definition here, it should also be edited in Section 3-III.C.
- Similar to previous policies, this policy provides that the PHA may consider alternatives to termination or other factors which allow the PHA to decide, on a case-by-case basis, not to terminate assistance.

*****Current Admin. plan language added to for the purpose of this form. No changes to the Admin. needed. *****

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

The PHA **will** terminate a family's assistance for a period of five years or until the balance owed to the PHA has been satisfied or if a later date is listed in this section otherwise if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

Any family member has been evicted from federally-assisted housing in the last five years.

~~Any PHA has ever terminated assistance under the program for any member of the family.~~

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

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

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the PHA.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Family Absence from the Unit [24 CFR 982.312]



Decision Point: How many consecutive days may a family be absent from their unit before their assistance will be terminated? (Model plan, p. 12-8)

Things to Consider

- The PHA must establish a policy on how long the family may be absent from the assisted unit.
- The family may be absent from the unit for brief periods. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason.
- In order to give families and the PHA maximum flexibility under the regulations, the model plan adopts the maximum standard of 180 consecutive calendar days.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.



Decision Point: How will the PHA determine which HAP contracts will be terminated if there is insufficient funding to continue assisting all current participants? (Model plan, p. 12-9)

Things to Consider

- Notice PIH-2005-9, Public Housing Agency (PHA) Flexibility to Manage the Housing Choice Voucher Program in 2005, states that PHAs should add termination policies due to insufficient funding to their administrative plans.
- Further, Notice PIH 2011-32, Policies and Procedures for Special Purpose Housing Choice Vouchers for Non- Elderly Disabled Families and Other Special Populations, requires that PHAs establish policies in the administrative plan regarding selection of special purpose voucher families if the PHA has stopped and subsequently resumed issuing vouchers after a funding shortfall, in addition to policies that address terminating special purpose voucher families should termination be necessary.
- The model plan does not include a default policy regarding how the PHA will determine the order in which HAP contracts are terminated, other than to simply state the requirement set forth under Notice PIH 2011-32 that families comprising the required number of special purpose vouchers be the last to be terminated. Instead we have for the most part identified approaches and issues for PHAs to consider, so that the PHA may add additional criteria and instructions into the policy as it sees fit.
NMA is not rendering a legal opinion on the HAP termination options included in this guide. PHAs are responsible for ensuring that the policy adopted is consistent with all applicable Federal, state and local laws.
- Termination of HAP contracts should be a last resort. Therefore, the model plan language states that prior to terminating HAP contracts due to insufficient funding, the PHA will determine if other cost cutting measures can be implemented to resolve or diminish the funding shortfall.
- The model plan does not identify specific cost cutting measures that the PHA will take prior to termination of HAP contracts. This is due to the wide variation in local conditions. What is reasonable for one PHA may not be for another, or what may be a sensible strategy today may not be next month. PHAs need to have the flexibility to determine appropriate cost-cutting measures based on current conditions. The model plan language provides this flexibility.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- However, Notice PIH 2011-32 suggests that PHAs typically deal with funding shortfalls within a given year by ceasing to issue vouchers. The notice makes clear that if the PHA is administering special purpose vouchers and decides to stop issuing vouchers due to a funding shortfall, these families must be the first to be selected from the waiting list once the PHA begins issuing vouchers again. The notice also specifies that policies concerning this matter must be included in the administrative plan. In accordance with the notice, the model plan language meets this requirement.
- The Conference Report (H.Rpt. 108-792) accompanying the Consolidated Appropriations Act of 2005 (“the Act”) states that “Agencies shall ensure that current elderly and disabled voucher families be protected against significant impacts resulting from adjustments made by agencies to maintain their voucher programs within their 2005 budgets.”
- Although Congress explicitly mentioned the importance of protecting elderly and disabled voucher families in its conference report, PHAs must also be careful that their adopted policy does not violate fair housing laws by discriminating against any protected class (e.g. families with children.)
- There are a couple of different ways a PHA can approach this type of policy. The first is to base terminations on a family’s history of compliance with family obligations and other HCV program requirements. The second is to base it on issues unrelated to the family’s behavior. These can be random in nature or based on other objective criteria (e.g. length of time in the program).
- Terminations based on family behavior – noncompliance with family obligations and/or behavior that gives the PHA grounds to terminate assistance:
 - Other policies in the model plan call for a family’s assistance to be terminated when family members violate family obligations or engage in certain criminal activity. In addition, the model plan states that the PHA will terminate assistance for the reasons authorized in 24 CFR 982.552 (with the exception of failing to meet FSS obligations).
 - However, the model plan also states that the PHA will consider alternatives to terminating assistance and other factors, allowing the PHA on a case-by-case basis, to choose not to terminate assistance in the circumstances described above. Therefore, it is likely that the PHA will always have a number of participants who have violated family obligations or other program requirements, but have been allowed to remain on the program.
 - When it is necessary to terminate HAP contracts due to insufficient funding, it makes sense for a PHA to start with the families who have violated program requirements in the past, rather than families who have fulfilled their family obligations all along. This approach is reasonable, fair, and more likely to be widely accepted by the PHA staff and board, residents, local government officials, and the general public.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- PHAs must be mindful that in order for this type of policy to be successful and fair, PHAs must accurately and consistently document in the family file, family obligation violations and/or other behavior that can result in termination of assistance.
- When developing this type of policy it is important to remember that not all family obligations are created equal. The policy should take into account the severity of a violation when determining the order in which families should be terminated. Those who commit a more serious violation such as intentionally under-reporting income, or engaging in criminal activity, drug use or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, should be terminated prior to those who commit a less serious violation such as failing to report the birth of a child within the PHA's required time frame.
- Categories of violations should be well defined, ranked in order of seriousness, and may have multiple components. For example, within the broader category of fraud the PHA could determine that those who currently owe the PHA money will be terminated prior to those who have already reimbursed the PHA. Or, families could be terminated according to ranges of dollar amounts owed to the PHA.
- Under this approach, PHAs must also define the time period under consideration within each category. For example will the PHA look at violations within the past six months, twelve months, etc.?
- The policy must also describe how families will actually be selected for termination within any given category. If you have 10 families that meet the first criteria and only 5 HAP contracts need to be terminated in order to operate within the annual budget authority, how will you select which 5 will be terminated? Will it be random? Will it be based on the date the violation or behavior occurred? Will it be based on the total number of violations?

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- Depending on the number of participants who fall into any given category, it may or may not be necessary to identify multiple categories of violations in order to have an adequate universe of families to terminate.
- Following is an example of a termination policy taking into account the items above:

The PHA will terminate HAP contracts starting with Category 1 families. The PHA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

Category 1: Families who have committed program fraud or abuse within the past 6 months.

Within each group below, the PHA will terminate HAP contracts according to the date the PHA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the PHA will rank the notices for that date using a random method.

First, the PHA will terminate families who owe the PHA money but are not yet under repayment agreement.

Second, the PHA will terminate families who owe the PHA money, are under repayment agreement, but have made at least one late payment.

Third, the PHA will terminate families who owe the PHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

Category 2: Families who committed program fraud or abuse 6-12 months ago.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- Terminations based on issues unrelated to family behavior:
 - First in, first out. Under this option the PHA would terminate families according to the date of the family’s admission to the program, starting with those who have been receiving assistance the longest. As long as this type of policy exempts elderly and disabled families, it is consistent with the philosophy of “time limits” for housing assistance under HUD’s Flexible Voucher Program proposal, as well as the conference report recommendation to protect elderly and disabled families.
 - Last in, first out. Under this option the PHA would terminate families according to the date of the family’s admission to the program, starting with those most recently admitted.
 - Random method. Under this option the PHA would randomly select families for termination.
 - When adopting this type of termination policy, PHAs should consider how elderly/disabled families will be protected (because these families are reasonably expected to require long-term housing assistance) and if other types of families will also be protected (e.g. families with children under age 18). For example, the PHA could choose to apply the selected criteria to families in the following order:
 1. Non-elderly, non-disabled single member families.
 2. Non-elderly, non-disabled families with no children under the age of 18.
 3. Non-elderly, non disabled families with children under the age of 18.
 4. Elderly and disabled families.
 - Terminating families based on arbitrary grounds (last in, first out and random method) are the least desirable options and are likely to receive the most opposition from interested parties.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is.

*****Current Admin. language added for the purpose of this form. No change to the Admin. needed.*****



Option 1: Use the model plan language shown below. Insert the HAP termination criteria as indicated.

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

Families comprising the required number of special purpose vouchers, i.e., HUD-Veteran's Affairs Supportive Housing (HUD-VASH), will be the last to be terminated.

The first families to be terminated in the event of insufficient funding will be those families who have been on the program the longest. However, the elderly, near-elderly and disabled will be protected from termination due to insufficient funding.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

This section provides an overview. **No policy decisions are required.**

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

This section describes the types of actions that constitute termination of a family's assistance. **No policy decisions are required.**

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

When HUD regulations give the PHA discretion about terminating assistance the PHA may, at its sole discretion, terminate assistance or take one of the following alternative measures discussed in this section.

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].



Decision Point: Will the PHA permit a family to continue receiving assistance if the culpable family member leaves the unit, and under what circumstances? (Model plan, p. 12-11)

Things to Consider

- Allowing a family to continue receiving assistance when a culpable family member leaves can be a sensible way to accommodate the needs of family members who were innocent of wrong-doing. However, the regulation does not address the problem of such an individual returning to the unit as a guest. The model plan includes a policy that requires the head of household to certify that the individual will not be permitted to visit or stay in the unit. The PHA could choose a policy that restricts only whether the individual stays in the unit overnight, rather than restricting all visits. However, prohibiting visits as well as staying as a guest should ensure that the individual will stay away from the unit entirely, with no gray areas.
- If the PHA believes that the former family member is continuing to stay in the unit despite the head of household's certification, the policy in the model plan permits the PHA to require the family to provide information about the individual's new address as evidence that the person has, in fact, moved from the assisted unit. Having such a policy stated explicitly should facilitate the PHA's efforts to ensure compliance with the family's commitment to prohibit the offending individual's access to the unit.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon PHA request.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Repayment of Family Debts

- Decision Point: Will the PHA permit a family to continue to receive assistance if the family owes money to the PHA, and if so, under what circumstances? (Model plan, p. 12-11)**

Things to Consider

The model plan states that families must repay debts in full or enter into a repayment agreement, within 30 days of receiving notice of the debt, in order for their assistance to continue.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

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

Evidence

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



Decision Point: What standard of evidence will the PHA use to support terminations of assistance? (Model plan, p. 12-12)

Things to Consider

- For administrative ease and consistency, the model plan relies on the concept of the preponderance of the evidence -- the standard used for evaluating termination for violent and drug-related criminal activities -- as the standard for evaluating all grounds for termination.
- Whatever standard of evidence is selected here should match the standard selected in Section 3-III.E.
- The definition of *preponderance of the evidence* is the same as is used in Chapters 3, 14, and 16. Therefore, any changes made to the definition here must also be made in those chapters.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

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

This section describes limits on the PHA's ability to run criminal background checks after admission. No policy decisions are required.

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.



Decision Point: What circumstances will the PHA consider when deciding whether to terminate assistance? (Model plan, p. 12-12)

Things to Consider

- The regulation gives the PHA the authority to consider all relevant circumstances. By establishing a local policy about the kinds of circumstances that will be considered, the PHA can help ensure that staff consistently take the same types of information into consideration when making their decisions. If your PHA would prefer to include different or additional criteria in the policy, you will need to edit the model plan accordingly.
- Notice PIH 2015-19 states that the fact that someone has been arrested does not itself prove that the person has engaged in criminal activity and is not an acceptable reason to terminate assistance. Further, HUD does not recommend the adoption of a 'one-strike' policy for criminal activity. Therefore, the language in the model policy clarifies that the PHA will not rely on an arrest alone, but if evidence of an arrest is found, will instead consider other factors and circumstances surrounding the arrest. While HUD has stated that it may be advisable to wait until the arrest disposition, PHAs may continue to obtain and review police reports, records of disposition of any criminal charges, and/or other evidence associated with the arrest in order to make an eligibility determination.
- If you wish to amend the model policy, bear in mind that HUD's Office of General Counsel has stated that it is not acceptable to adopt blanket policies for terminations for either arrests or convictions for criminal activity. Further, a policy that fails to consider the nature, severity, and recency of the circumstances surrounding an arrest or conviction may also be considered discriminatory under the Fair Housing Act.
- The model plan language clarifies that in the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family will also be considered.
- Taking into consideration whether or not a false certification was signed by a family, makes a distinction between families who fail to report interim changes between reexamination and families who actually certify to incorrect information as part of the reexamination process.
- It is advisable for PHAs to establish a dollar threshold when considering the amount of overpaid subsidy to help ensure consistency among staff members. Because PHAs have varying needs and circumstances, the policy in the model plan does not include a threshold.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will consider the following facts and circumstances when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault, or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest(s) will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

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

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

The PHA will require the 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.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

- Decision Point: Do you want to elaborate on how the PHA will handle requests for reasonable accommodations related to termination of assistance? (Model plan, p. 12-13)**

Things to Consider

- Some PHAs have experienced problems with offering reasonable accommodations to deal with family offenses. For example, some families request reasonable accommodations when the family member's disability was not related to the offense. Others have requested accommodations that will not prevent a recurrence of the offense. Policies elsewhere in the plan (see Chapter 2) discuss the PHA's obligation to offer reasonable accommodations to family members with disabilities. Here, the intent of the policy is to clarify that any accommodation must directly address the problem for which the termination is being considered.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

VAWA Protections against Termination

This section describes the special protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault, and stalking. **No policy decisions are required.**

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

This section discusses two limitations on the VAWA protections against termination of assistance. The first does not require any policy decisions.



Decision Point: What factors will the PHA consider in determining whether a tenant is an actual and imminent threat? (Model plan, p. 12-15)

Things to Consider

- Although VAWA does not define *actual and imminent threat*, the regulations at 24 CFR 5.2005(d)(2), (d)(3), and (e) provide standards for PHAs to apply when determining whether or not a victim of domestic violence, dating violence, sexual assault, or stalking poses such a threat. The model policy echoes and expands on these standards.
- While VAWA does not limit a PHA’s authority to terminate a victim’s assistance if it can demonstrate that the victim poses an actual and imminent threat to others, the PHA is not required to take this action. If the PHA does take this action against someone who is protected from termination under the law, the burden of proof will fall on the PHA. Therefore, the PHA should not take this action without first considering whether some other action will eliminate the threat. The model plan states that the PHA will explore alternatives to termination, such as helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat. This is consistent with 24 CFR 5.2005(d)(3), which states that termination “should be utilized . . . only when there are no other actions that could be taken to reduce or eliminate the threat.”
- The model plan makes clear that when the PHA determines that a victim’s tenancy poses an actual and imminent threat, the victim still has the right to due process and may challenge the determination in an informal hearing.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to the property where the participant's unit is located, the PHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

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 or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA'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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Documentation of Abuse [24 CFR 5.2007]

This section addresses the PHA's discretion to require documentation from victims of domestic violence, dating violence, sexual assault, or stalking who claim the protection that VAWA provides against termination of assistance.



Decision Point: When a program participant facing termination of assistance claims protection under VAWA, will the PHA require documentation of domestic violence, dating violence, sexual assault, or stalking? (Model plan, p. 12-16)

Things to Consider

- The model policy here is intentionally flexible. It calls for the PHA, as a general rule, to require documentation in accordance with the policies in section 16-IX.D of the model plan from any individual who claims the protection against termination of assistance that VAWA provides for victims of domestic violence, dating violence, sexual assault, or stalking. However, the model policy also reserves the PHA's right to make exceptions to this general rule when appropriate.
- Routinely requiring documentation will discourage individuals from making false or frivolous claims for protection under VAWA. It will also allow the PHA to terminate assistance if an individual fails to provide acceptable documentation in a timely manner. As 24 CFR 5.2007(c) states, "In order to deny relief for protection under VAWA, a PHA . . . must provide the individual with a written request for documentation of the abuse."
- Allowing exceptions to the general rule will permit the PHA to provide benefits when a victim's statement is credible on its face or when there is other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking (such as physical signs of abuse or the testimony of reliable witnesses).

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

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



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators.



Decision Point: Under what conditions will the PHA terminate assistance to a perpetrator of criminal acts of physical violence without terminating assistance to, or otherwise penalizing, the victim? (Model plan, p. 12-16)

- The law protects the victim, not the perpetrator. If the perpetrator is evicted or otherwise removed and the victim is in good standing with the PHA, there will be no grounds for termination of the entire family and the PHA will have satisfied the law.
- The model policy parallels the model termination policies elsewhere in Chapter 12 in three ways:
 - It states the condition under which the PHA will terminate a family member’s assistance: namely, if the PHA determines that the family member has committed criminal acts of physical violence against another family member or others, as expressly permitted under VAWA.
 - It describes the factors the PHA will consider in making its determination.
 - It leaves the door open for the PHA to determine that an alternative solution, such as rehabilitation of the abuser, may be more appropriate in some cases.

If the PHA has structured its other termination policies differently, it may wish to restructure this one to match.

- If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program.
- The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.

The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.



Decision Point: Will the PHA always provide written notice of termination of assistance? If so, what will the notice contain? (Model plan, p. 12-18)

Things to Consider

- The model policy calls for the PHA to provide written notice of termination anytime a family's assistance will be terminated, regardless of the reason. The PHA could send a notice only when required by HUD regulations.
- The model policy specifies that notices of termination of assistance will be sent to both family and owner. However, it does not specify that the content of the notices to both parties must be the same. The content can—and in some cases should—be different. For example, if the PHA is terminating a family's assistance for cause, the PHA must state the reason in the notice to the family, but it should not include this information in the notice to the owner.
- The model policy specifies that the notice will state the date on which the termination will become effective, as recommended in the *Housing Choice Voucher Program Guidebook* [HCV GB, p. 15-7]. If the family is entitled to an informal hearing, this date should allow enough time for the hearing process to be completed.
- HUD does not stipulate how much notice must be provided before termination. The model policy uses the same general time frame for this type of notice as is used for the notice when the family's share of the rent increases. However, since there will be occasions when the PHA cannot provide at least 30 days' notice (such as when a single tenant dies or when a family vacates its assisted unit without informing the PHA), the model policy also allows for exceptions.
- Even though a family's assistance will be terminated, the family may wish to continue renting the same unit. Therefore, the model policy states that, when appropriate, the PHA will use the notice of termination of assistance to advise the owner of the unit that he/she has a right to offer the family a separate, unassisted lease [HCV GB, p. 15-8].

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Whenever a family's assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

The model policy calls for a participant claiming protection under VAWA to notify the PHA within 10 business days. This is the same amount of time that the model administrative plan allows for requesting an informal hearing (see section 16-III.C). If the PHA requires the participant to provide documentation of domestic violence, dating violence, sexual assault, or stalking, the participant would be entitled to additional time to provide the documentation (see section 16-IX.D of the model plan). PHAs are required to include information about the protections against termination afforded to victims of domestic violence, dating violence, sexual assault, and stalking under the Violence against Women Act of 2013 (VAWA) in termination notices.



Decision Point: How will the PHA include VAWA information in notices of termination? (Model plan, p. 12-18)

Things to Consider

- The model policy here is consistent with the model policy on VAWA notification to program applicants and participants in section 16-IX.C of the model administrative plan. If the PHA deletes or edits the policy here, it should edit the policy in section 16-IX.C accordingly.
- The model policy calls for a participant claiming protection under VAWA to notify the PHA within 10 business days. This is the same amount of time that the model administrative plan allows for requesting an informal hearing (see section 16-III.C). If the PHA requires the participant to provide documentation of domestic violence, dating violence, sexual assault, or stalking, the participant would be entitled to additional time to provide the documentation (see section 16-IX.D of the model plan).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The PHA will request in writing that a family member wishing to claim protection under VAWA notify the PHA within 14 business days.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

This section provides an overview. **No policy decisions are required.**

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

Serious or Repeated Lease Violations

The owner is permitted to terminate tenancy for serious or repeated violations of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). **No policy decisions are required.**

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises. **No policy decisions are required.**

Criminal Activity or Alcohol Abuse

With some limitations imposed by VAWA, the owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest, or another person under the tenant's control, commits certain types of criminal activity, is fleeing to avoid prosecution, has violated a condition of parole, or abuses alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. **No policy decisions are required.**

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking. **No policy decisions are required.**

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. This section specifies what constitutes "other good cause" for termination of tenancy by the owner during the initial lease term, and following the initial lease term. **No policy decisions are required.**

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

This section explains owner eviction requirements.



Decision Point: Upon court-ordered eviction of an assisted family, what information is the owner required to provide to the PHA? (Model plan, p. 12-21)

Things to Consider

- Although the regulations require an owner to provide the PHA with any notice of eviction, the regulations do not specify that the owner must provide documentation to the PHA following the court-ordered eviction.
- Requiring the owner to provide documentation related to the eviction will help the PHA determine whether the family was evicted for “serious or repeated” violations of the lease, and will ensure that the PHA is aware of the eviction date as soon as possible.
- Due to the nature of the policy, the standard 10 business day time frame is not used. Instead, it has been shortened to 5 business days.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so. This section lists some of the criteria the owner may use to make this decision. It also specifies that the owner may require a family member who has committed certain offenses to leave the family as a condition of continuing the tenancy, and that the owner may consider whether a family member who has been involved in certain drug-related offenses has successfully completed a rehabilitation program.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

No policy decisions are required.

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10). **No policy decisions are required.**

Instructions for Preparing Chapter 12: Termination of Assistance and Tenancy

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

INTRODUCTION

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA's HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

PART I: OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6; [HCV Landlord Strategy Guidebook for PHAs](#)]

PHAs have a responsibility to ensure that very low income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

Recruitment



Decision Point: How will the PHA conduct owner outreach, particularly to owners of unit in areas outside of poverty or minority concentration? (Model plan, p 13-3)

Things to Consider

- The model plan language offers several actions that the PHA will take to identify and recruit owners, especially those outside areas of minority or poverty concentration.
- If your PHA uses specific outreach strategies that are not listed, the model plan should be edited accordingly.
- PHAs within metropolitan FMR areas should select Option 2. This option requires the PHA to identify areas within its jurisdiction which it has identified as areas of poverty or minority concentration. This information must be included in the administrative plan in order to receive full points on Indicator 7, Expanding Housing Opportunities, under SEMAP [24 CFR 985.3(g)].
- [HUD published the first chapter of the HCV Landlord Strategy Guidebook for PHAs entitled "Education and Outreach" in April 2020. The guidebook provides detailed information on how PHAs may coordinate outreach, including detailed information on planning events, conducting landlord orientations, establishing landlord advisory boards, conducting landlord outreach events in conjunction with other community partners, tenant education for potential and current voucher holders, marketing, and information sharing strategies.](#)

Instructions for Preparing Chapter 13: Owners

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Admin updated to reflect the below language. Change to the Admin. needed.*****

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

Distributing printed material about the program to property owners and managers

Contacting property owners and managers by phone or in-person

Holding owner recruitment/information meetings at least once a year

Participating in community-based organizations comprised of private property and apartment owners and managers

Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations

To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

- Option 2: If your PHA is within a metropolitan FMR area, delete model plan language and substitute language as shown below.*

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

Distributing printed material about the program to property owners and managers

Contacting property owners and managers by phone or in-person

Holding owner recruitment/information meetings at least once a year

Participating in community-based organizations comprised of private property and apartment owners and managers

Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations

Instructions for Preparing Chapter 13: Owners

To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Instructions for Preparing Chapter 13: Owners

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

The following areas have been identified as areas of poverty and minority concentration within the PHA's jurisdiction:

[List areas by neighborhoods/census tracts]

- Option 3: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Retention



Decision Point: What services will the PHA provide to help retain owners? (Model plan, p 13-4)

Things to Consider

- The model plan language offers several actions that the PHA will take to provide good customer service to participating owners.
- Your PHA may wish to not use any or all of these statements or actions.
- Your PHA may also wish to add other actions, such as:
 - ~~publishing either a paper or electronic an~~ owner newsletter designed to clarify HUD and PHA policies and procedures; Both electronic and print newsletters require a higher level of resource investment than other information sharing strategies, but are also an effective way to communicate large amounts of information to owners;
 - ~~or~~ Conducting periodic owner surveys to determine how customer service for owners can be improved. Under these circumstances, you will need to edit or delete the model language and insert your own; or-
 - Maintaining an owner advisory board that meets biannually to provide feedback on landlord issues in the HCV program.
- The PHA may also wish to utilize website or portals, social media posts, emails, or texts to disseminate information to owners, particularly if it is time sensitive.
- The PHA should consider maintaining a landlord email list.

Instructions for Preparing Chapter 13: Owners



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

All PHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The PHA will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The PHA will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated PHA contact person.

Coordinating inspection and leasing activities between the PHA, the owner, and the family.

Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

Providing other written information about how the program operates [through a landlord handbook](#), including answers to frequently asked questions.

[Contacting owners via emails or texts to disseminate information.](#)

Additional services may be undertaken on an as-needed basis, and as resources permit.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

This section of Chapter 13 is a summary of the basic HCV program requirements, of which owners must be aware. These requirements are all discussed in greater detail elsewhere in the administrative plan.

- Decision Point:** How will the PHA gather information from owners willing to lease a unit to an eligible HCV family, and make this available to families? (Model plan, p 13-5)

Things to Consider

- HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. The PHA cannot *pre-qualify* owners to participate in the program. However, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit. The only policy decision in this section is how the PHA will gather this owner information and make it available to families.

- Option 1:* Use the model plan language shown below. No changes to the model plan are needed.

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the PHA. The PHA will maintain a listing of such interested owners and provide this listing to the HCV family as part of the informational briefing packet

- Option 2:* Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

This section of Chapter 13 is a summary of the owner's responsibilities as outlined in the regulations. **No policy decisions are required.**

13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. This section outlines those criteria in some detail.

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation. **No policy decisions are required.** However, PHA procedures will be necessary to secure this information and inform the owner of the results, as well as informing the owner of any HUD directives not to approve a tenancy.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception to this prohibition as a reasonable accommodation for a family member with a disability. **No policy decisions are required.**

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The PHA must not approve a tenancy in which certain classes of persons have any interest, direct or indirect, during tenure or for one year thereafter. The plan lists these classes of persons and notes that the HUD Field Office may waive the conflict of interest requirements for good cause.



Decision Point: How will the PHA manage requests to HUD for waiver of the conflict of interest provisions when a prospective owner has such a conflict? (Model plan, p 13-9)

Things to Consider

- When the PHA encounters such a situation, the PHA will need to consider whether a waiver request is appropriate. A number of issues can and should be considered by the PHA. In addition, the PHA must ensure that its conflict of interest policies on when to deny and when to request a waiver are applied consistently, fairly and uniformly.

Instructions for Preparing Chapter 13: Owners



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In considering whether to request a conflict of interest waiver from HUD, the PHA 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.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

The regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.



Decision Point: Under what circumstances will the PHA disapprove owners from participating in the HCV program, due to owner actions, and will the PHA allow the consideration of any mitigating factors? (Model plan, p 13-10)

Things to Consider

- The model plan lists all of the regulatory reasons for disapproval as options that the PHA may use its authority to if it chooses. The model plan also indicates that the PHA will consider whether there are mitigating factors that would argue against disapproval in a specific situation.
- The model plan clarifies that a PHA will disapprove an owner if “the PHA becomes aware” that an owner has engaged in any of these actions. This statement is meant to clarify that the PHA is not responsible to research and verify whether or not the circumstances have occurred, but rather that the PHA will take action when the circumstances are known.
- Your PHA may not wish to use any or all of these reasons as a basis for disapproving owners. Under these circumstances, you will need to edit or delete the model language.

Instructions for Preparing Chapter 13: Owners



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will refuse to approve a request for tenancy if the PHA becomes aware that any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

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 tenant-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 tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, 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 residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, 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; or

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 13: Owners

Legal Ownership of Unit

HUD does not require proof of ownership of an assisted unit as a condition of unit approval in the HCV program.



Decision Point: Will the PHA require proof of legal ownership from the alleged owner of the unit, prior to entering into a contractual relationship with the individual? (Model plan, p 13-11)

Things to Consider

- The model plan language does require acceptable documentation of legal ownership before the PHA will enter into a contractual relationship with the individual alleging to be the owner of the unit. Such a policy may impose an additional administrative burden on the PHA and may be met with some resistance by owners. However, requiring proof of ownership is consistent with program integrity objectives and demonstrates due diligence on the part of the PHA.
- If your PHA elects not to require such proof, you will need to delete or edit the model language accordingly.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 13: Owners

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

This section reiterates the general principle (also found in the HAP contract) that an owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

Chapter 2 includes greater detail on Fair Housing and Equal Opportunity requirements in the HCV program. **No policy decisions required.**

PART II: HAP CONTRACTS

13-II.A. OVERVIEW

This section is a brief overview and summary of the HAP contract, discussed in part II. **No policy decisions are required.**

13-II.B. HAP CONTRACT CONTENTS

This section is a brief discussion of the three key parts to the HAP contract.

In general, the HAP contract cannot be modified. However, there are two exceptions. The first exception (collecting security deposits) is discussed in Chapter 9. The second exception is discussed below.



Decision Point: How will the PHA define when the housing assistance payment by the PHA is deemed to be received by the owner? (Model plan, p 13-14)

Things to Consider

- PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner). That discretion is addressed in this section.
- The primary purpose in defining the receipt of a HAP payment is to help clarify what it means for a HAP payment to be paid “promptly.” The HAP contract includes provisions for the owner to impose penalties against the PHA for failure to pay the housing assistance payment on time (see later discussion in the Guide). By explicitly defining what is meant by the receipt of a HAP payment, and placing that language in the HAP contract to be agreed upon and signed by both PHA and owner, the PHA could potentially avoid later disputes and penalties based on the “timeliness” of HAP payments.
- The model plan does not explicitly adopt any policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contracts will be necessary on this issue. You may wish to adopt such a definition. If so, you could adopt some alternative policy language.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

13-II.C. HAP CONTRACT PAYMENTS

General

This section offers a summary discussion of the key requirements relative to PHA payment of housing assistance payments to the owner. **No policy decisions are required.** However, PHA procedures will be necessary to ensure that accurate HAP payments are made promptly to each owner on behalf of the assisted family, at the beginning of each month.

Owner Certification of Compliance

This section is a brief statement on the requirement for the owner to comply with all provisions of the HAP contract in order to be entitled to receive housing assistance payments under the HAP contract. **No policy decisions are required.**

Late HAP Payments [24 CFR 982.451(a)(5)]

This section is a summary of the circumstances under which the owner could legitimately charge the PHA “penalties” for HAP payments that are not paid promptly by the PHA at the beginning of the month, as well as circumstances under which the PHA might not be required to pay a late penalty.

No policy decisions are required. However, be aware of the policy decision discussed in the Guide under Section 13-II.B. PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner. The primary purpose in defining the receipt of a HAP payment is to help clarify what it means for a HAP payment to be paid “promptly.” Such a definition, included in the HAP contract, could potentially avoid later disputes and penalties based on the “timeliness” of PHA HAP payments.

Instructions for Preparing Chapter 13: Owners

Termination of HAP Payments [24 CFR 982.311(b)]

This section discusses the circumstances under which HAP payments will terminate. Essentially, the housing assistance payments terminate when the HAP contract terminates.



Decision Point: Where an owner has initiated eviction proceedings against a tenant family, how long will the PHA continue to make HAP payments to the owner after the owner has obtained a court judgment or other process allowing the owner to evict the tenant? (Model plan, p 13-17)

Things to Consider

- Housing assistance payments also terminate when the lease is terminated by the owner in accordance with the terms of the lease. There are circumstances under which the owner has *initiated* eviction proceedings against the family, but has yet to obtain any sort of formal or legal judgment on the eviction, and the family continues to reside in the unit. Under these circumstances, the PHA must 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 tenant.
- However, there may also be circumstances under which the owner has obtained a court judgment or other process which allows the owner to evict the tenant, but the family has yet to physically move from the unit and the owner has yet to physically evict the family. Under these circumstances, the regulations state that the PHA *may* continue to make HAP payments until the family moves or the family is evicted from the unit.
- This requires a policy decision from the PHA on how it will handle these limited circumstances. Some reasonable administrative delay between court order and physical eviction may be necessary. However, if the delay persists beyond some reasonable time, the PHA may wish to set policy which limits the PHA's liability for HAP payments in these situations.
- The model plan language adopts a reasonable approach which should address the vast majority of such situations. After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will agree to continue to make HAP payments to the owner until the family actually moves from the unit or until the family is actually evicted from the unit, whichever is earlier. In this situation, the owner has a responsibility to keep the PHA informed of the date when the family actually moves from the unit or the family is actually evicted from the unit. You may wish to adopt a more stringent policy which limits the PHA's liability for HAP payments only up to the regulatory required point of a court judgment or other process which allows the owner to evict the tenant. If so, you may edit the model plan language or delete it and substitute your own policy statement.

Instructions for Preparing Chapter 13: Owners



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The owner must inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the PHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the PHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the PHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

There are a number of circumstances under which an owner might breach the HAP contract. These circumstances are outlined in the plan.



Decision Point: What steps will the PHA take to determine if an owner breach of HAP contract has occurred, and what factors will the PHA consider in deciding on an appropriate remedy? (Model plan, p 13-18)

Things to Consider

- The model plan language provides some level of review and consideration not required by the regulations. This PHA review is necessary both in fairness to and consideration of the owner's situation, as well as to help establish the appropriate PHA remedy, if any, for the HAP contract breach.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Before the PHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the PHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the PHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

This section specifically addresses the term of the HAP contract and circumstances under which the HAP contract would terminate.

There are a number of situations where the PHA must terminate the HAP contract. There are other discretionary circumstances where the PHA may, but is not required to, terminate the HAP contract.



Decision Point: Under what circumstances will the PHA elect to terminate the HAP contract? (Model plan, p 13-19)

Things to Consider

- The model plan language adopts several discretionary criteria under which a PHA may elect to terminate the HAP contract. The policy does not require termination under these circumstances, but preserves the PHA's right to terminate. Many of these circumstances are discussed elsewhere in the plan and all are discussed in the regulations.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see Chapter 8;

The family breaks up [HUD Form 52641] – see Chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 13: Owners

Where the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract.



Decision Point: When does the HAP contract terminate, after the PHA has provided a written HAP contract termination notice to the owner and the tenant? (Model plan, p 13-20)

Things to Consider

- A key policy decision here is the exact date at which the HAP contract terminates, after the PHA provides notice. The PHA must develop a policy for establishing the effective date of any HAP contract termination.
- The model plan language adopts a policy of HAP contract termination at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. This would allow, in all cases, at least 30 days notice to the owner and family that HAP assistance will terminate. Shorter notice periods may be subject to legal challenge.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the PHA any housing assistance payment received after this period.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

13-ILF. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

When a dwelling unit with an assisted family changes ownership, the HAP contract cannot be assigned to the new owner without the prior written consent of the PHA. An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit and must supply all information as requested by the PHA.



Decision Point: How will the PHA handle approval of assignment of a HAP contract from one owner to another owner? (Model plan, p 13-21)

Things to Consider

- The new owner must also be qualified to become an owner under the HCV program and must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.
- PHA policy decisions here relate to the type of information the PHA will request in order to approve the assignment of the HAP contract to a new owner, and how that information will be communicated to the PHA. The model plan language requires the agreement to be in writing, and requires the new owner to provide several pieces of information.

Instructions for Preparing Chapter 13: Owners



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The PHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the PHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the PHA that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

The effective date of the HAP contract assignment;

A written agreement to comply with the terms of the HAP contract;

A certification that the new owner is not a prohibited relative

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in Chapter 9.



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 13: Owners

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

Families receiving HCV Assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA).



Decision Point: How will the PHA apply the requirements of the PTFA? (Model plan, p 13-22)

Things to Consider

- The Protecting Tenants at Foreclosure Act (PTFA) was signed into law in 2009. HUD subsequently issued Notice PIH 2010-49 and amended the HAP contract for the HCV program, however, the law temporarily sunset on December 31, 2014. As such, HUD removed the language related to the law from the HAP contract in April 2018.
- However, the law was reinstated and permanently extended in May 2018. While the applicable HUD notice expired on December 31, 2011, Notice PIH 2010-49 remains guidance for PHAs on how to apply the law.
- The law itself amends the statute for the HCV program to require:
 - “During the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable federal, state, or local law, or for other good cause...and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner— (i) will occupy the unit as a primary residence; and (ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”
 - “In the case of any foreclosure on any federally related mortgage loan (as that term is defined in Section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not affect any state or local law that provides longer time periods or other additional protections for tenants.”

Instructions for Preparing Chapter 13: Owners

- While Notice PIH 2010-49 is no longer mandatory, the PHA may wish to adopt the requirements of the notice as safe harbor guidance. The notice states the PHA should:
 - Make all reasonable efforts to determine the status of the foreclosure and ownership of the property;
 - Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract;
 - Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law;
 - Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction;
 - Inform the tenant in the event that the PHA is unable to make HAP payments to the successor in interest due to an action or inaction by the successor that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the successor, the PHA may use the funds that would have been used to pay the rent for other purposes. These other purposes may include:
 - To pay the utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or
 - To pay for the family's reasonable moving costs, including security deposit costs.
 - Refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.
 - Make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be or has been assisted under the Neighborhood Stabilization Program (NSP). (For further guidance on cases in which the units have been assisted under the NSP, see Notice PIH 2010-49.)
 - Notify HCV applicants who have been issued a voucher, participant heads of household, and current and prospective owners of HCV-assisted housing of the protections afforded to tenants under the PTFA.
- The model policy adopts the language from the expired notice as safe harbor guidance in Option 1.

Instructions for Preparing Chapter 13: Owners



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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

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

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

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

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



Option 2: Use another PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 13: Owners

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan. Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 13: Owners

Instructions for Preparing Chapter 16: Program Administration

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

Instructions for Preparing Chapter 16: Program Administration

Instructions for Preparing Chapter 16: Program Administration

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.



Decision Point: What is the maximum amount that may be charged against the administrative fee reserve without specific approval from the PHA Board of Commissioners or other authorized officials? (Model plan, p. 16-3)

Things to Consider

- In determining the maximum amount, PHAs may want to consider, the total amount of funding available in the UNP account, the amount that is likely to be expended on an annual basis, and the types of expenditures that will be made.
- The model plan adopts a limit of \$10,000. This provides the Executive Director with flexibility in spending administrative fee reserve dollars.
- The maximum amount identified in this policy must be consistent with the PHA's procurement policy, and the maximum amount the PHA can procure without prior approval from the Board of Commissioners.
- The model plan uses the term Board of Commissioners. If your PHA's governing body goes by a different name, the policy should be edited to reflect this.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Current Admin. plan language added for the purpose of this form. No changes needed.*****

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$15,000 per occurrence without the prior approval of the PHA's Board of Commissioners.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

This part discusses how the PHA establishes and updates payment standards and utility allowances.



Decision Point: What is the PHA’s policy for making the payment standard and utility allowance schedules available for review and comment? (Model plan, p. 16-5)

Things to Consider

- Providing families, owners, and members of the public an opportunity to review and provide comments about the payment standard and utility allowance schedules creates more community support for PHA policies, and a sense of collaboration with those that are impacted by the PHA’s decisions.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Copies of any of the payment standard and utility allowance schedules are available for review in the PHA’s offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this Part, at any time, for consideration during the next revision cycle.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Decision Point: How long will the PHA maintain documentation to support the annual review of payment standard and utility allowance schedules? (Model plan, p. 16-5)

Things to Consider

- There is no specific requirement regarding the length of time the PHA is required to retain these types of records. However, three years is the standard time frame that HUD requires the PHA to maintain many other types of records, therefore, this is the time frame used in the model plan [24 CFR 982.158].



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

This section describes the purpose of payment standards and requirements for establishing a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].



Decision Point: What factors will the PHA consider when determining whether to update its payment standard amounts? (Model plan, p. 16-6)

Things to Consider

- The PHA must review its payment standard amounts at least annually when the FMRs are published to ensure that they remain within the basic range.
- The level at which the payment standard is set affects the amount of subsidy a family will receive, and the amount of rent they will pay, therefore it is important for the payment standard amounts not to be set too high, or too low.
- If the payment standards are set too low, families may need to pay more rent than they can afford, and may have a hard time finding acceptable units, or units in neighborhoods with a lower concentration of poor and minority households.
- In establishing or updating payment standards, the PHA must also consider funding availability and the number of households that the PHA will be able to serve.
- The model plan language allows the PHA to consider a number of factors, which will help the PHA establish payment standards that will allow families a reasonable selection of decent, safe, and sanitary housing in a range of neighborhoods within the PHA's jurisdiction and ensure that families are not over-burdened, while also taking into consideration the budgetary constraints the PHA must work under.
- Your PHA may wish to consider additional factors, or different factors. If so, the model plan language will need to be edited accordingly.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Funding Availability: The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The PHA ~~will~~ may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit availability: The PHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The PHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Decision Point: When will changes to the payment standard schedule be effective? (Model plan, p. 16-6)

Things to Consider

- The HUD published Fair Market Rents (FMRs) are effective on approximately October 1st of every year. If changes to the FMRs result in the PHA's current payment standards falling outside the basic range, the PHA must adjust those payment standards to be within the basic range no later than three months following the FMR effective date. This is a regulatory change which took effect in January 2017.
- For example, if the new FMR went into effect on October 1, 2017, the PHA would need to update their payment standard if necessary to fall within the basic range of the new FMRs no later than January 1, 2018.
- The option to implement mandatory payment standard revisions within a three-month time frame eliminates the need to make retroactive adjustments when payment standards have increased.
- If the PHA's current payment standards are still within the basic range, no revisions are required. The PHA may choose to revise its payment standards in order to maintain standards at a set percentage of FMR; in this case, revisions would take effect on a date selected by the PHA.
- PHAs may also change their payment standards more than once during the year, or at other times than when HUD publishes FMRs, as long as the payment standards remain within the basic range. For example, a PHA may experience a significant increase or decrease in its Per Unit Cost (PUC), and may determine that a mid-year increase or decrease in payment standards is warranted.
- Under Option 1, the PHA is committing to ensuring that payment standards will be within the basic range, but leaving options open as far as when payment standards will be modified and effective.
- Under Option ~~1~~2, the PHA will implement mandatory and discretionary payment standard revisions effective January 1 of each year. This option allows for uniform effective dates and reduces confusion as to when revised payment standards should be utilized for new admissions, movers, and annual reexaminations.
- Option ~~2~~3 provides that the PHA will implement HUD-required payment standard revisions effective January 1, but will determine an alternate date for implementation of discretionary revisions.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Current Admin language added below for the purpose of this form. No changes to the Admin. needed.*****

Changes to payment standard amounts will be effective on January 1st of every year, or within three months of the FMR effective date, whichever is earlier. The effective date is applicable both to HUD-required revisions and to discretionary revisions.

- Option 2: Delete model plan language and substitute language as shown below.*

Changes to payment standard amounts will be effective on January 1st of every year, or within three months of the FMR effective date, whichever is earlier. The effective date is applicable both to HUD-required revisions and to discretionary revisions.

- Option 23: Delete model plan language and substitute language as shown below.*

If changes to the FMRs result in the PHA's current payment standards falling outside the basic range, revisions to the payment standards will be effective on January 1st. The PHA will determine the effective date of discretionary payment standard revisions.

- Option 34: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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

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

HUD will issue a separate *Federal Register* notice proposing conditions and procedures under which a PHA using SAFMRs may request HUD approval to establish an exception payment standard that exceeds 110 percent of the SAFMR. The requirements at 24 CFR 982.503(c) do not

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~~apply to such requests. This section states that PHAs must request HUD approval to establish payment standards that are higher than the basic range, and that approval of such an exception is at HUD's sole discretion.~~ **No policy decisions are required.**

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

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



Decision Point: Will the PHA voluntarily adopt the use of SAFMRs? (Model plan, p. 16-7)

Things to Consider

- As described in Notice PIH 2018-01, voluntary adoption of SAFMRs requires a planning process by the PHA. The PHA must compare SAFMRs to “regular” metropolitan area FMRs and must:
 - Consider whether adoption of SAFMRs is likely to have an adverse effect on the availability of affordable rental housing
 - Estimate the effect on families of SAFMR adoption and consider whether to adopt “hold harmless” or “gradual reduction in subsidy” options
 - Identify any areas where the difference between the metropolitan area FMR and the (lower) SAFMR is 10 percent or more and opt-in will therefore trigger the need for rent reasonableness determinations
- The default policy states that the PHA will not voluntarily adopt SAFMRs.
- Select Option 2 if your agency is not located in a metropolitan area.
- If the PHA opts to adopt SAFMRs, select Option 3 and include tenant protection policies as described above.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Current Admin plan language added for the purpose of this form. No changes to the Admin. needed.*****

[The PHA is not located in a metropolitan area and does not have the option of adopting SAFMRs.](#)



Option 2: Delete the model plan language and substitute the language shown below.

The PHA is not located in a metropolitan area and does not have the option of adopting SAFMRs except to establish exception payment standards in certain zip code areas.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.



Decision Point: Under what circumstances will the PHA make an exception to the payment standard, or request HUD to make an exception, as a reasonable accommodation? (Model plan, p. 16-7)

Things to consider

- The model plan clarifies that PHA will only approve, or request from HUD, an exception payment standard as a reasonable accommodation, when there is a shortage of affordable units that would be appropriate, the family's TTP would exceed 40 percent of monthly adjusted income, and the rent is reasonable.
- According to HUD regulations, a PHA may not approve a tenancy for initial occupancy, where the gross rent exceeds the payment standard, and the family share exceeds 40 percent of the family's adjusted monthly income. This standard is used by HUD to determine the "rent burden" of a family. Therefore, according to the model plan language, the PHA will not request or approve an exception payment standard if the family is not "rent burdened" according to this standard.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the PHA must determine that:

There is a shortage of affordable units that would be appropriate for the family;

The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

This section describes how a PHA can qualify for and request HUD approval of a “success rate payment standard” that would apply to the entire jurisdiction. **No policy decisions are required.**

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

This section states that PHAs must request HUD approval to establish payment standards that are lower than the basic range, and that approval of lower payment standard amounts is at HUD’s sole discretion. **No policy decisions are required.**

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

Air Conditioning

- Decision Point: Do the majority of housing units in the market have central air-conditioning or are they wired for tenant-installed air conditioners? (Model plan, p. 16-9)**

Things to Consider:

- An allowance for air-conditioning must be provided when the majority of housing units in the market has central air-conditioning or are wired for tenant-installed air conditioners.
- The model plan language is based on the assumption that the majority of housing units in the PHA's jurisdiction has central air conditioning or is wired for tenant-installed air conditioners. If this isn't the case in your PHA's jurisdiction, select Option 2.

- Option 1: Use the model plan language shown below if your utility allowance schedule includes an allowance for air-conditioning.*

The PHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the PHA will apply this allowance to a family's rent and subsidy calculations.

- Option 2: Use the model plan language below if your utility allowance schedule does not include an allowance for air-conditioning.*

The majority of housing units in the PHA's jurisdiction does not include central air-conditioning and is not wired for tenant-installed air conditioners. Therefore, the PHA has not included an allowance for air-conditioning in its utility allowance schedule.

Reasonable Accommodation

This section states the requirement that PHAs must approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. **No policy decisions are required.**

Utility Allowance Revisions

This section describes the requirements to review and revise utility allowance schedules. **No policy decisions are required.**

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.”

16-III.B. INFORMAL REVIEWS

Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]

This section lists the circumstances under which a PHA is required to offer an informal review, and the circumstances under which the PHA is not required to offer one.



Decision Point: Will the PHA offer applicants the opportunity for an informal review for any reasons other than those required by the regulations? (Model plan, p. 16-11)

Things to Consider:

- Offering informal reviews takes time and resources. Therefore, to reduce the administrative burden on PHAs, the model language states that the PHA will only offer informal reviews when required by the regulations.
- PHAs may want to offer informal reviews for other PHA decisions, or may want to offer applicants the option of meeting with the PHA to resolve specific concerns. For example, if an applicant is denied a preference, a PHA may want to offer them an opportunity for an informal review, or an opportunity to meet with PHA staff to resolve their concern.
- Informal meetings are a matter of courtesy and good customer service but do not need to be structured with policy requirements.
- If a PHA wants to offer informal reviews for reasons other than denial of assistance, the policy should state this and include a listing of the reasons or circumstances under which an applicant family will be offered an informal review.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance and the notice must contain certain information. **No policy decisions are required.**

Scheduling an Informal Review

- Decision Point: How many days does an applicant family have to request an informal review, and how quickly must the PHA schedule it? (Model plan, p. 16-12)**

Things to Consider

*****Current Admin language added below for the purpose of this form. No changes to the Admin. needed.*****

- For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

A request for an informal review must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 calendar days from the date of the PHA's denial of assistance.

The PHA must schedule and send written notice of the informal review within 10 business days of the family's request.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Informal Review Procedures [24 CFR 982.554(b)]

This section describes the regulatory requirements for the informal review process. **No policy decisions are required.**

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Remote Informal Reviews



Decision Point: Will the PHA conduct any informal reviews remotely under certain circumstances? If so, will the PHA consider conducting remote informal reviews upon request of the applicant for certain criteria? (Model plan, p. 16-13)

Things to Consider

- In case of local, state, or federal physical distancing orders, natural disasters or inclement weather, the PHA has the authority, and may decide to require remote informal reviews.
- While the PHA is not required to conduct informal reviews remotely in these cases, conducting reviews this way may aid the PHA in continuing normal operations and providing required services to families.
- The PHA should also consider offering remote informal reviews outside of times of extraordinary circumstances upon request of the applicant for certain PHA-defined criteria. The model policy suggests that these criteria include reasonable accommodation, lack of transportation or child care, and when applicants are concerned about exposure to health risks by attending an in-person hearing. The PHA may wish to add other criteria to this list and consider other requests on a case-by-case basis.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect below language. Change needed.*****

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

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



Option 2: Delete model plan language and substitute language as shown below.

The PHA will not conduct remote informal reviews.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Conducting Remote Informal Reviews

Decision Point: How will the PHA conduct informal reviews remotely? (Model plan, p. 16-13)

Things to Consider

- If the PHA chooses not to conduct remote informal reviews, this section should be deleted.
- For many PHAs, holding informal reviews by telephone is not unusual.
- Telephone reviews may be more acceptable and accessible than videoconferencing to all parties, particularly since low-income families may have limited access to reliable internet or a computer.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to add below language. Changes needed.*****

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

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

Option 2: Delete model plan language and substitute language as shown below.

The PHA will conduct remote informal reviews via telephone call-in. The PHA will provide the applicant, applicant representatives, if any, PHA representatives, and person conducting the informal review, the conferencing call-in information before the review.

Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.



Decision Point: What factors will the PHA consider in rendering its decision and how will the applicant be notified of the decision? (Model plan, p. 16-~~13~~14)

Things to Consider

- Identifying the factors the PHA will consider when making an informal review decision, helps to ensure consistency in the way decisions are made and makes the decision process transparent to all involved.
- The model plan language clarifies that the final decision is made by the PHA, not by the person conducting the review. This is consistent with the regulation which states that “The PHA must notify the applicant of the **PHA final decision** after the informal review...” [24 CFR 982.554(b)(3)].
- For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
- This policy clarifies that the PHA will maintain proof of mailing for all informal review decision notices. A proof or affidavit of mailing is a sworn statement that a person mailed something. Maintaining a proof of mailing will ensure that the applicant family receives the PHA's decision. Many examples of a proof of mailing are available online and can easily be found using any search engine.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, 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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

Decisions Subject to Informal Hearing

This section lists the circumstances under which a PHA is required to offer an informal hearing, and the circumstances under which the PHA is not required to offer one.

- Decision Point: Will the PHA offer participants the opportunity for an informal hearing for any reasons other than those required by the regulations? (Model plan, p. 16-15)**

Things to Consider:

- Offering informal hearings takes considerable time and resources. Therefore, to reduce the administrative burden on PHAs, the model language states that the PHA will only offer informal hearings when required to by the regulations.
- If a PHA wants to offer informal hearings for reasons in addition to those required by the regulation, the policy should include a listing of those reasons or circumstances.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Remote Informal Hearings

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations.



Decision Point: Will the PHA conduct any informal hearings remotely under certain circumstances? If so, will the PHA consider conducting remote informal hearings upon request of the participant for certain criteria? (Model plan, p. 16-16)

Things to Consider

- In case of local, state, or federal physical distancing orders, natural disasters, or inclement weather, the PHA has the authority, and may decide to require remote informal hearings.
- While the PHA is not required to conduct informal hearings remotely in these cases, conducting reviews this way may aid the PHA in continuing normal operations and providing required services to families.
- The PHA should also consider offering remote informal hearings outside of times of extraordinary circumstances upon request of the applicant for certain PHA-defined criteria. The model policy suggests that these criteria include reasonable accommodation, lack of transportation or child care, and when applicants are concerned about exposure to health risks by attending an in-person hearing. The PHA may wish to add other criteria to this list and consider other requests on a case-by-case basis.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Delete model plan language and substitute language as shown below.

The PHA will not conduct remote informal hearings.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Conducting Informal Hearings Remotely



Decision Point: How will the PHA conduct informal hearings remotely? (Model plan, p. 16-17)

Things to Consider

- If the PHA chooses not to conduct remote informal reviews, this section should be deleted.
- For many PHAs, holding informal hearings by telephone is not unusual.
- Telephone conferencing call-in informal hearings may be more acceptable and accessible than videoconferencing to all parties particularly since low-income families may have limited access to reliable internet or a computer.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

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



Option 2: Delete model plan language and substitute language as shown below.

The PHA will conduct remote informal hearings via telephone conferencing call-in. The PHA will provide all parties telephone call-in information before the hearing.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.



Decision Point: What information will be contained in the notice to the family? (Model plan, p. 16-1618)

Things to Consider

- The model plan language includes all of the items that a PHA is required to put in the notice, along with two additional items: to whom the hearing request should be addressed, and a copy of the PHA's hearing procedures.
- It is important to identify to whom the hearing request should be addressed, due to the time sensitive nature of the request. The family only has 10 business days to request the hearing, and the PHA only has 10 business days to schedule and notify the family of the hearing date. Including this information will ensure that the request is received by the appropriate person in a timely manner.
- It is imperative that the PHA include a copy of the PHA's hearing procedures with the notice. Without this information, the family will be unable to properly prepare for the hearing. Providing this information as a matter of policy provides assurance that the PHA has done all it can to inform the family of their rights and responsibilities in the hearing process.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the PHA.

A brief statement of the reasons for the decision, including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the PHA's decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of the PHA's hearing procedures.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If the PHA establishes policy to conduct remote informal hearings, what information needs to be added to the notice to the family? (Model plan, p. 16-18)

Things to Consider

- If the PHA chooses not to conduct informal hearings remotely, the following section should be deleted.
- In order to ensure due process, it is important that the PHA notifies the family of its hearing procedures, including that the informal hearing must be, or may be, conducted remotely.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated with language below. Changes needed.*****

That the family may request a remote informal hearing

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the family informing them of the right to request an informal hearing, the family will be notified that the informal hearing will be conducted remotely. The family will be informed of the processes involved in a remote informal hearing and that the PHA will provide technical assistance, if needed, before the informal hearing.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.



Decision Point: How many days does a participant family have to request an informal hearing, and how quickly must the PHA schedule it? (Model plan, p. 16-~~17~~19)

Things to Consider

- For administrative ease and consistency, this policy uses the standard of 10 business days that it used throughout much of the plan.
- The regulation states that the PHA must proceed with the hearing in a “reasonably expeditious” manner upon the request of the family. Therefore, if you decide to use a time frame different than the model language, this requirement should be kept in mind.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Current Admin language added below for the purpose of this form. No changes to the Admin. needed. *****

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 calendar days from the date of the PHA’s decision or notice to terminate assistance.

The PHA must schedule and send the notification of the informal hearing to the family within 10 business days of the family’s request.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.



Decision Point: Under what circumstances can a family request to have a hearing rescheduled and how must the request be made? (Model plan, p. 16-17)

Things to Consider

- The model plan allows the family to request to reschedule a hearing only for good cause, which is defined in the policy. This type of policy reduces the number of hearings that have to be rescheduled, which can be particularly important when the PHA is relying on hearing officers who do not work for the PHA.
- The model plan allows the family to make the request orally or in writing. This gives the family flexibility if the timing or nature of their conflict makes it difficult for the family to complete and submit a written request.

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- The model plan also allows the PHA to request documentation from the family, if the PHA determines it is necessary in order to determine good cause.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the “good cause” prior to rescheduling the hearing.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.



Decision Point: Will the PHA reschedule a hearing if a family does not appear at the scheduled hearing and has not made previous arrangements to reschedule? (Model plan, p. 16-1719)

Things to Consider

- If a family does not appear at a scheduled hearing, and did not make previous arrangements to reschedule it, the model language states that the PHA will only reschedule the hearing if the family contacts the PHA within 24 hours of the scheduled hearing date, and the family can show good cause.
- This type of policy reduces the number of no-shows and the number of hearings that have to be rescheduled, while still allowing families who face last minute legitimate emergencies to have a second chance to have a hearing.
- PHAs may wish to automatically schedule a second appointment if a participant family does not appear at the first scheduled appointment. See Option 2 for this type of policy.
- A third option is also provided. This option is the most streamlined and the strictest. Unless a family reschedules for good cause prior to the hearing, or qualifies for a reasonable accommodation, the family will not be offered a second opportunity for hearing if they fail to appear at the hearing. If a family has an emergency the day of the hearing, and is unable to make contact with the PHA prior to the time of the hearing, this policy prevents the family from having a hearing rescheduled.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. [If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.](#)



Option 2: Delete model plan language and substitute language as shown below.

If the family does not appear within 20 minutes of the scheduled time, the PHA will automatically reschedule the hearing. Applicants who fail to attend two scheduled hearings will not be given another opportunity for a hearing, and the PHA's original decision will stand.



Option 3: Delete model plan language and substitute language as shown below.

If the family does not appear within 20 minutes of the time stated in the letter of notification, the PHA will not reschedule the hearing unless needed as a reasonable accommodation for a person with a disability.



Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights.



Decision Point: How much will the PHA charge the family for copies of documents related to the hearing, and what is the deadline for the family to request discovery of the documents? (Model plan, p. 16-~~18~~20)

Things to Consider

- The model plan states that families will be charged \$.25 per page. Whatever cost the PHA uses, it should be reasonable for both the PHA and the family.
- The model plan requires the family to request discovery of the documents no later than noon on the business day prior to the hearing. This policy clearly sets expectations, and prevents the family from making any last minute requests that could cause a delay in the hearing.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: In the case of remote hearings, how will the PHA provide the family the opportunity to examine any relevant PHA documents prior to the hearing? (Model plan, p. 16-20)

Things to Consider

- If the PHA chooses not to conduct remote informal hearings, this section should be deleted.
- If the hearing will be conducted remotely, special consideration must be given to how the PHA will provide for pre-hearing discovery for the family. The model policy calls for the creation of a hearing packet containing all documents the PHA intends to produce at the hearing.
- The model plan also states that the original hearing packet will be retained by the PHA.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect the below language. Changes to Admin. needed.*****

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

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Decision Point: Will the PHA share hearing-related documents with the family electronically whenever possible? (Model plan, p. 16-20)

Things to Consider

- Regardless of whether the PHA chooses to conduct the informal hearing in person or remotely, sharing hearing-related documents electronically is cost-effective and convenient for both the PHA and the family.
- As such, the model plan states that hearing-related documents will be shared electronically whenever possible.
- Providing documents electronically may speed the delivery of documents, but low-income families may not be able to readily access documents in this way. For this reason, rather than requiring documents be made available electronically, the policy states this method will be used when possible.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin. updated to reflect language below. Change to Admin needed.*****

Documents will be shared electronically whenever possible.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: Will the PHA require pre-hearing discovery by the PHA of family documents directly relevant to the hearing? (Model plan, p. 16-20)

Things to Consider

- HUD regulations allow, but do not require, that the PHA may establish a policy requiring the PHA be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing.
- If the PHA establishes such policy, the PHA must be allowed to copy any such document at the PHA's expense.
- If the family does not make the documents available for examination on request of the PHA, the family may not rely on the document at the hearing.
- Many advocates do not believe that establishing pre-hearing discovery by the PHA of family documents is a best practice because the balance of power (knowledge of HUD regulations, PHA expertise, and PHA in-house representation) weighs more heavily on the side of the PHA.
- In addition, families may understand the case more completely after receiving the PHA documents directly relevant to the hearing.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect language below. Changes to Admin needed.*****

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If the PHA conducts remote hearings, will the PHA require pre-hearing discovery by the PHA of family documents directly relevant to the hearing? If so, when and how will the PHA require the family to submit them, and when will it provide them to the hearing officer and PHA representative? (Model plan, p. 16-20)

Things to Consider

- If the PHA chooses not to conduct remote informal hearings, this section should be deleted.
- Although the model plan does not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing for in-person hearings, it does require them for remote hearings. In contrast to in-person hearings, where the family is not required to submit documents ahead of time and may simply present documents to the PHA the day of the hearing, submission of documents must be given special consideration for remote hearings due to their remote nature. That is, the family will not be able to submit documents at the PHA on the day of the hearing, so it is necessary that they submit any hearing-related documents they intend to use ahead of time.
- The model plan states in the case of remote hearings, the PHA will require the family to provide any hearing-related documents to the PHA at least 24 hours before the scheduled hearing, and that the PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect the language below. Changes to Admin. needed.*****

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If the PHA requires pre-hearing discovery by the PHA of hearing-related family documents, or if the PHA will conduct hearings remotely, will the PHA opt for electronic documents whenever possible? (Model plan, p. 16-20)

Things to Consider

- If the PHA chooses not to require pre-hearing discovery by the PHA of family documents directly relevant to the hearing, or if the PHA will not conduct remote informal hearings, this section should be deleted.
- Sharing hearing-related documents electronically is cost-effective and convenient for both the PHA and the family. As such, the model plan states that hearing-related documents will be shared electronically whenever possible.
- However, the PHA should also consider family preference here as families may not have access to reliable internet or have the ability to print emailed documents.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Documents will be shared electronically whenever possible.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing. **No policy decisions are required.**

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

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision. **No policy decisions are required.**

Decision Point: ~~Who will the PHA designate as hearing officers? (Model plan, p. 16-18)~~

Things to Consider

- ~~Identifying who the PHA will designate as hearing officers, is not required, but makes the hearing process more transparent to all involved.~~
- ~~The listing should contain position titles, or names of organizations that serve as hearing officers. Specific individuals should not be named.~~

CAUTION: ~~You must insert information here. The model plan does not contain language that can be adopted as-is.~~

~~Option 1: Use the model plan language shown below. No changes to the model plan are needed.~~

~~The PHA has designated the following to serve as hearing officers:~~

~~[List here positions/organizations that have been designated to serve as hearing officers]~~

~~Option 2: Use PHA established policy. Edit the model plan language or delete it and insert the PHA's policy.~~

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Attendance at the Informal Hearing



Decision Point: Who is authorized to attend informal hearings? (Model plan, p. 16-1921)

Things to Consider

- Including a listing of who is authorized to attend the hearing in the informal hearing procedures makes the process more transparent to all involved, and ensures that participants are aware that they have the right to bring counsel or other representation, as well as witnesses.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Hearings may be attended by a hearing officer and the following applicable persons:

A PHA representative(s) and any witnesses for the PHA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Conduct at Hearings



Decision Point: Who manages the conduct of the hearing and what are the standards of conduct? (Model plan, p. 16-[1921](#))

Things to Consider

- This policy is important because it clarifies that the hearing officer, not the PHA representative involved in presenting the case, is responsible for managing the conduct of the hearing.
- It also emphasizes the requirement for all hearing participants (PHA staff and participants) to behave appropriately at the hearing.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Evidence [24 CFR 982.555(e)(5)]



Decision Point: What are the types and standards of evidence that can be used in the informal hearing process? (Model plan, p. 16-~~2022~~)

Things to Consider

- Defining the types of evidence that can be presented, and reiterating the admissibility rules provides transparency and helps those involved in the hearing to better understand the rules and process.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Procedures for Rehearing or Further Hearing



Decision Point: Under what circumstances will a rehearing or further hearing be conducted? (Model plan, p. 16-[2022](#))

Things to Consider

- There may be circumstances in which a hearing officer determines it is necessary to allow the family to provide additional information, or to reconvene at a later date. The model plan language allows for this circumstance and explains what will happen if a family does not comply with the hearing officer's requests.
- Option 2 allows the PHA or the participant to request a rehearing or further hearing for good cause. This type of policy is not required, but does allow for errors to be corrected, or for important information that was not known at the time of the hearing to be considered.
- Option 2 states that it is at the sole discretion of the PHA to grant a rehearing or further hearing. This language allows the PHA to deny a rehearing in cases where it is unwarranted.
- Option 2 requires the request to be made in writing and uses the standard of 10 business days that is used throughout much of the plan.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.



Option 2: Delete model plan language and substitute language as shown below.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer's report is mailed to the PHA and the participant, the PHA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10-business-day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, as to why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the PHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Hearing Officer's Decision [24 CFR 982.555(e)(6)]



Decision Point: What factors will the hearing officer consider when making his or her decision? (Model plan, pp. 16-~~2023~~, 16-21)

Things to Consider

- Clearly identifying the factors the hearing officer will use when making his or her decision and including this information in policy, makes the process transparent to the hearing officer, the PHA, and the participant, and also helps to ensure consistency in how decisions are made. This is particularly important when the PHA relies on multiple hearing officers.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

PHA Notice to the Family: The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

PHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: When will the hearing decision be issued and what will the decision notice contain? (Model plan, p. 16-~~24~~23)

Things to Consider

- For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
- Describing in detail the contents of the hearing report ensures that all hearing decisions contain the same information. Again, this information is helpful to all involved in the hearing. It sets a standard for the hearing officer to follow, and informs participants of what information they can expect to receive in the hearing report.
- The definition of *preponderance of the evidence* is the same as is used in Chapters 3, 12, and 14. Therefore, any changes made to the definition here must also be made in those chapters.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the PHA representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *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.

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Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA’s decision.

Order: The hearing report will include a statement of whether the PHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant’s program status.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

Issuance of Decision [24 CFR 982.555(e)(6)]

- Decision Point: How will the PHA and the family be notified of the hearing officer’s decision? (Model plan, p. 16-[2224](#))**

Things to Consider:

- The administrative plan should describe the notification methods the PHA will utilize for the hearing officer’s decision.
- In the interest of fairness, the default policy provides that the hearing officer will mail copies of the decision to the PHA and to the family on the same day.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The hearing officer will mail a “Notice of Hearing Decision” to the PHA and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original “Notice of Hearing Decision” and a copy of the proof of mailing. A copy of the “Notice of Hearing Decision” will be maintained in the PHA’s file.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

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Effect of Final Decision [24 CFR 982.555(f)]



Decision Point: What will be included in the PHA’s “Notice of Final Decision”?
(Model plan, p. 16-~~22~~24)

Things to Consider

- The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.
- If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.
- The model plan clarifies what will be sent with the Notice, and ensures that the PHA includes proof of mailing. A proof or affidavit of mailing is a sworn statement that a person mailed something. Many examples can be found online using any search engine. It is important for the PHA to provide proof of mailing to the family, as well as maintaining proof within the PHA files. This policy requires both.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect the below language. Change to Admin. needed.*****

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the PHA will mail a “Notice of Final Decision” to the PHA and the participant on the same day. The “Notice of Final Decision” will be sent by first-class mail. A copy of this notice will be maintained in the PHA’s file.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

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This section describes what must be included in the notice of denial or termination of assistance.
No policy decisions are required.

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USCIS Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the United States Citizenship and Immigration Services (USCIS) secondary verification failed to confirm eligible immigration status of an applicant or participant, the PHA must notify the family of the results, and the family has 30 days from the date of the notification to make an appeal to the USCIS of the verification results.



Decision Point: How long will the PHA have to notify an applicant or participant family of the results of the USCIS secondary verification process? (Model plan, p. 16-[2426](#))

Things to Consider

- For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
- If the 10 business day time frame is changed here, it must also be changed in Section 3-II.B, Ineligible Families.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: What are the requirements for the family to notify the PHA that an appeal to the USCIS has been requested? (Model plan, p. 16-[2426](#))

Things to Consider

- For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.
- This policy also states that the family is responsible for providing a proof of mailing along with the written request. A proof or affidavit of mailing is simply a sworn statement that a person mailed something, and many examples can be easily found online using any search engine.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: How soon after the USCIS appeal results are issued, will the PHA send written notice to the family of their right to request an informal hearing on the PHA's ineligibility decision? (Model plan, p. 16-[2426](#))

Things to Consider

- For administrative ease and consistency, this policy uses the standard of 10 business days that is used throughout much of the plan.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA 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.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

The informal hearing procedures for applicants are discussed in this section.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. The listing of hearing officers in Section 16-III.C. also applies to this section. Therefore, **no policy decisions are required.**

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Evidence

This section describes a family's right to examine evidence, present evidence, and the right to confront and cross-examine all witnesses on whose testimony or information the PHA relies.



Decision Point: How much will the PHA charge the family for copies of documents related to the hearing, and what is the deadline for the family to request discovery of the documents? (Model plan, p. 16-~~25~~27)

Things to Consider

- The model plan states that families will be charged \$.25 per page. Whatever cost the PHA uses, it should be reasonable for both the PHA and the family.
- The model plan requires the family to request discovery of the documents no later than noon, on the business day prior to the hearing. This policy clearly sets expectations, and prevents the family from making any last minute requests that could cause a delay in the hearing.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Representation and Interpretive Services

This section describes the family's right to be represented by an attorney or other designee, and to arrange for an interpreter to attend the hearing. **No policy decisions are required.**

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Recording of the Hearing



Decision Point: Will the PHA provide a transcript of an audio taped hearing?
(Model plan, p. 16-~~25~~27)

Things to Consider

- The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.
- Providing a transcript to a hearing can be costly, therefore, the model plan states that the PHA will not provide it.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not provide a transcript of an audio taped hearing.



Option 2: Delete model plan language and substitute language as shown below.

The PHA will provide a transcript of an audio taped hearing, upon request of the family.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision. **No policy decisions are required.**

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

The informal hearing procedures for participant families whose assistance is being terminated based on immigration status, is the same as for other participant families (see Section 16-III.C.).

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years specific documents that were submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process. **No policy decisions are required.**

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PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54].



Decision Point: Will the PHA utilize repayment agreements? (Model plan, p. 16-~~2729~~)

Things to Consider

- Repayment agreements require additional administrative functions.
- HUD does not require PHAs to utilize repayment agreements [24 CFR 982.552(c)(1)(vii)].
- By offering repayment agreements, the PHA may allow some families to avoid having their assistance terminated.
- PHAs may be more likely to recover amounts owed if payment can be made in monthly installments rather than all at once.
- When PHAs recover amounts that are due as a result of fraud and abuse, they are generally entitled to retain the greater of 50 percent of what they recover or the cost to recover it [24 CFR 792.202].
- If you do not wish to offer repayment agreements, select Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.



Option 2: If you choose not to offer repayment agreements, delete the model plan language and substitute language as shown below.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will **not** offer to enter into repayment agreements as a means to recover overpayments.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: What other collection methods will the PHA utilize? (Model plan, p. 16-~~27~~29)

Things to Consider

- Although it is good practice for the PHA to pursue collection methods other than repayment agreements, PHAs should be aware of the limitations of those other methods. For example, civil collections can be expensive and time consuming, not all states have income tax set-off programs, and collection agencies charge a fee (percentage of the amount collected).
- If your PHA uses other methods to collect debts, the model plan should be edited to include those methods.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

When an owner or participant refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

State income tax set-off program



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

- Decision Point: How long does an owner have to repay amounts due to the PHA?**
(Model plan, p. 16-[2830](#))

Things to Consider

- Owners are in the rental housing business and should therefore be able to repay a debt more quickly than participant families. Based on this reasoning, the model plan states that owners are required to repay the full amount of any debt within 30 days.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

- Decision Point: If the owner fails to repay the debt within the required time frame, how will the PHA collect the debt?** (Model plan, p. 16-[2830](#))

Things to Consider

- If the owner fails to repay the debt within 30 days, the simplest way to recover the money is to offset future HAP payments that the owner is entitled to. This recovery method is expressly permitted by the HAP contract.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: If an owner is not entitled to future payments, will the PHA enter into a repayment agreement with the owner? (Model plan, p. 16-2830)

Things to Consider

- If the owner fails to repay the debt within 30 days and is not entitled to any future HAP payments, collection will be more difficult.
- To increase the chances of recovering the amount owed, the model plan allows the PHA to offer to enter into a repayment agreement, but it does not require the PHA to do so.
- The model plan does not establish guidelines for repayment agreements with owners, instead giving the PHA the flexibility to decide the terms of such agreements on a case-by-case basis.
- If your PHA has chosen not to enter into repayment agreements, select Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the owner is not entitled to future HAP payments the PHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.



Option 2: If you choose not to offer repayment agreements, delete model plan language and substitute language as shown below.

If the owner is not entitled to future HAP payments and refuses to repay the debt within the required time frame, the PHA will ban the owner from future participation in the program and pursue other modes of collection.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If an owner refuses to repay a debt, does not enter into a repayment agreement, or breaches a repayment agreement, what action will the PHA take? (Model plan, p. 16-2830)

Things to Consider

- If your PHA has chosen not to enter into repayment agreements, select Option 2 and delete the model plan language.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.



Option 2: If you choose not to offer repayment agreements, delete the model plan language.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Family Debts to the PHA



Decision Point: How many days will a family be given to repay a debt, and what action will the PHA take if the family is unable to pay within this time frame? (Model plan, p. 16-[2830](#))

Things to Consider

- The model plan allows families the same amount of time to repay a debt as owners (30 days). The PHA could allow more time or could condition the time allowed on the amount of money owed.
- In most cases, families will be unable to repay a debt within 30 days. Therefore, the model plan states that families who are unable to do so will be offered a repayment agreement in accordance with the policies in this part.
- If your PHA has chosen not to enter into repayment agreements, select Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any amount owed to the PHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.



Option 2: If you choose not to offer repayment agreements, delete the model plan language and substitute language as shown below.

Any amount due to the PHA by an HCV family must be repaid by the family within 30 days of the PHA determination of the debt. If the family refuses to repay the debt within the required time frame, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If a family refuses to repay a debt, does not enter into a repayment agreement, or breaches the terms of a repayment agreement, what action will the PHA take? (Model plan, p. 16-2830)

Things to Consider

- The model plan language calls for termination of assistance in cases where a family refuses to repay a debt, does not enter into a repayment agreement, or breaches a repayment agreement. This type of policy is important because it ensures that the PHA's limited resources are being utilized by families who are willing to comply with the family obligations under the program. Such a policy is also mandatory under Notice PIH 2017-12 for families who have underreported or failed to report income.
- If your PHA has chosen not to enter into repayment agreements, this policy is not applicable. Select Option 2 and delete the model plan language.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect the language below. Change needed.*****

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.



Option 2: If you choose not to offer repayment agreements, delete the model plan language.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Repayment Agreement [24 CFR 792.103]

This section defines the term *repayment agreement*. **No policy decisions are required.**

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General Repayment Agreement Guidelines for Families

IMPORTANT NOTE:

If your PHA has chosen not to enter into repayment agreements, the remainder of this part is not applicable and should be deleted from the model plan.

If you have chosen to offer repayment agreements, continue with the remaining decision points in this part.

Down Payment Requirement



Decision Point: Will the PHA require a family to make a down payment prior to entering into a repayment agreement? (Model plan, p. 16-~~2830~~)

Things to Consider

- The model plan generally requires a family to make a down payment of 10 percent of the total amount owed as a condition of entering into a repayment agreement.
- A down payment demonstrates a commitment to repay a debt, which is important, but it also may deprive some families of the option of entering into a repayment agreement. Therefore, the model plan gives the PHA the discretion to reduce the down payment or waive it entirely when a family can demonstrate that it would represent an undue hardship.
- As alternatives, the PHA could require a minimum dollar amount to be paid, rather than a minimum percentage of the debt, or the PHA could choose not to require any down payment. If you prefer the second alternative, which reflects guidance on repayment agreements provided in Notice PIH 2017-12, select Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.



Option 2: Delete model plan language and substitute language as shown below.

A family may, but will not be required to, make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Payment Thresholds



Decision Point: How long will families have to repay their debts? (Model plan, p. 16-[2931](#))

Things to Consider

- The model plan establishes thresholds for repayment of debts while at the same time giving the PHA the flexibility to make exceptions for families for whom the monthly payment amounts required under the thresholds would be unaffordable. The purpose of the thresholds is to increase the likelihood that the PHA will collect debts in a reasonable period of time. The purpose of the flexibility is to ensure that families are able to make their monthly debt repayments and still meet their other financial obligations, including paying their monthly share of the rent to owner.
- Notice PIH 2017-12 recommends that PHAs calculate the monthly repayment amount for a family by subtracting the family's monthly rent to owner from 40 percent of the family's monthly adjusted income (MAI). This calculation method won't work for zero-income families or for families that are already paying 40 percent or more of their MAI in rent. However, since the model plan is flexible, the PHA could use this calculation method whenever it results in a monthly payment amount that is reasonable for the family and acceptable to the PHA. Alternatively, the PHA could select Option 2, which implements the guidance in Notice PIH 2017-12 but modifies it by setting a minimum monthly payment amount of \$25.
- The thresholds in the model plan represent a sliding scale, acknowledging the reality that it will take families with limited budgets a longer time to repay larger debts. The PHA may adjust the thresholds by changing the dollar ranges, the time frames for repayment, or both. Alternatively, the PHA may eliminate the thresholds and instead set a maximum amount for which it will enter into a repayment agreement and/or a maximum length of time for all repayment agreements.
- The first threshold in the model plan implies that the PHA will not enter into repayment agreements when the debt exceeds the federal or state threshold for criminal prosecution. This policy is consistent with the policy under the heading "No Offer of Repayment Agreement" later in this section of the model plan as well as with the policy in section 14-II.E. The decisions the PHA makes in these three places should be consistent.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA has established the following thresholds for repayment of debts:

Amounts between \$3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.

Amounts between \$2,000 and \$2,999 must be repaid within 30 months.

Amounts between \$1,000 and \$1,999 must be repaid within 24 months.

Amounts under \$1,000 must be repaid within 12 months.

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If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family's debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

The amount owed by the family to the PHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control

The family's current and potential income and expenses

The family's current family share, as calculated under 24 CFR 982.515

The family's history of meeting its financial responsibilities

Option 2: Delete model plan language and substitute language as shown below.

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family's MAI and the total family share at the time the agreement is executed

\$25

If a family is paying 40 percent or more of its MAI in rent, the PHA will establish a reasonable monthly payment amount commensurate with the family's MAI at the time the agreement is executed. In no event will the amount be less than \$25.

If a family can provide evidence satisfactory to the PHA that a monthly payment amount of \$25 would impose an undue hardship, the PHA may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either the PHA or the family may request that the monthly payment amount be adjusted accordingly.

Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Execution of the Agreement



Decision Point: Who will be required to sign the repayment agreement? (Model plan, p. 16-[2931](#))

Things to Consider

- If only the head of household signs the agreement and later leaves the family, the PHA has no acknowledgement of the debt by the spouse/cohead.
- Notice PIH 2017-12 requires all repayment agreements to be dated and signed “by both the tenant and the PHA.”



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Due Dates



Decision Point: What is the due date for payments to the PHA? (Model plan, p. 16-[2931](#))

Things to Consider

- The model plan calls for all payments under repayment agreements to be due on the 15th of each month. If the PHA permits a family to select the due date, and the PHA has multiple agreements, monitoring will be difficult.
- Because many bills (including rent) are due on or about the 1st, the family may be better able to pay the amount under a repayment agreement in the middle of the month.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Late or Missed Payments



Decision Point: What will the PHA consider as “breach” or default of a repayment agreement? (Model plan, p. 16-[3032](#))

Things to Consider

- It is important for the PHA to enforce the terms of repayment agreements. If the PHA fails to do so, the PHA will collect less money and will imply to participants that they do not have to fulfill the terms of their repayment agreement in order to continue receiving assistance.
- If the PHA fails to monitor repayment agreements, it will also be a disincentive for staff to be diligent in fraud prevention and detection.
- The model plan allows the family a “grace” period of 10 business days to make a late payment. PHAs are not required to offer this type of grace period.
- The model plan also allows a PHA to find a family in default of their repayment agreement and terminate assistance if there is a pattern of making late payments. The model plan sets the standard at three delinquency notices in a 12-month period; however, a PHA could choose to increase or decrease that number.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate assistance in accordance with the policies in Chapter 12.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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No Offer of Repayment Agreement



Decision Point: Under what circumstances will the PHA not enter into a repayment agreement with a family or owner? (Model plan, p. 16-[3031](#))

Things to Consider

- There may be conditions under which a PHA will not want to enter into a repayment agreement. These conditions should be clearly identified in the PHA's policies.

The model plan specifies two conditions under which the PHA will generally not enter into a repayment agreement. The second condition (the debt exceeds the federal or state threshold for criminal prosecution) is consistent with the policy under "Payment Thresholds" in this section and with the policy in section 14.II.F of the model plan.

- Note that the federal monetary threshold for HUD OIG investigations varies based on judicial district. In addition to limits set by local judicial districts, investigations may still be presented and accepted for prosecution despite not meeting the suggested loss established by the judicial district, depending on the facts of the case and impact to victims and the public.
- A third condition that the PHA might wish to add is if the PHA determines that the family's debt is a result of program abuse or fraud. Option 2 includes this third condition.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.



Option 2: Delete model plan language and substitute language as shown below.

The PHA generally will not enter into a repayment agreement with a family under any of the following conditions:

The family is already under an existing repayment agreement with the PHA.

The PHA determines that the family's debt is a result of program abuse or fraud (as defined in Chapter 14 of this plan).

The amount owed by the family exceeds the federal or state threshold for criminal prosecution.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Repayment Agreements Involving Improper Payments

This section describes certain provisions that Notice PIH 2017-12 mandates for inclusion in all repayment agreements with families that have underreported or failed to report income. **No policy decisions are required.**

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

This section provides a brief overview of the Section 8 Management Assessment Program (SEMAP) and describes the impact that SEMAP ratings can have on a PHA. **No policy decisions are required.**

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

This section describes SEMAP Certification submission requirements. **No policy decisions are required.**

HUD Verification Method

This section describes the methods used to verify a PHA's SEMAP certification. **No policy decisions are required.**

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

This section includes a table that lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator. **No policy decisions are required.**

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PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements. **No policy decisions are required.**

16-VI.B. RECORD RETENTION [24 CFR 982.158]

This section describes specific record retention requirements for the HCV program. **No policy decisions are required.**

16-VI.C. RECORDS MANAGEMENT



Decision Point: How will applicant and participant files be stored and what action will the PHA take for inappropriate disclosure or discussion of family information by PHA staff? (Model plan, p. 16-~~38~~[40](#))

Things to Consider

- This type of policy reassures applicants and families that their private information will be protected at all times, as well as informs employees what is expected of them.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

This section describes the PHA's obligation to maintain applicant and participant information in accordance with Privacy Act requirements and all other provisions of applicable Federal, State, and local law. **No policy decisions are required.**

Upfront Income Verification (UIV) Records



Decision Point: Will the PHA adopt and implement EIV security procedures prior to accessing HUD's EIV system? (Model plan, p. 16-[3840](#))

Things to Consider

- PHAs that access UIV data through HUD's EIV system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification Data*. HUD updates this document on a regular basis, so PHAs should check the HUD website regularly for changes.
- Including this information in a policy makes it clear to PHA staff, HCV participants, and the general public that there are additional procedural requirements related to the security and protection of data received from the EIV system.
- The model plan language is written so that it can be adopted by any PHA whether or not it is currently accessing HUD's EIV system.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures in accordance with HUD requirements.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Criminal Records

This section describes specific requirements relative to the PHA's handling of criminal information, including sex offender registration information. **No policy decisions are required.**

Medical/Disability Records

This section explains specific requirements regarding the PHA's handling of medical or disability related records. **No policy decisions are required.**

Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

This topic is addressed in section 16-IX.E of the model plan. **No policy decisions are required here.**

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PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA and the owner have certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This part deals with the reporting requirements, and data collection and record keeping responsibilities to which the PHA and owner are subject.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]



Decision Point: Who will be responsible for notifying HUD and the public health department when the owner is notified of the case? (Model plan, p. 16-4143)

Things to Consider

- The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. Notice PIH 2017-13 states that the PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department. The default policy provides that the PHA will notify the public health department on the owner's behalf in order to ensure that the regulatory requirement is fulfilled.
- The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the case within five business days. Here again, the PHA may wish to collaborate with the owner on this notification process and the default policy states that the PHA will do so.
- The default policy also clarifies that the notices will be written. Providing the notice in writing protects the owner and PHA from any claim that they did not properly report the information.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Upon notification by the owner, the PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

The PHA is subject to specific data collection and record keeping requirements relative to children that are less than 6 years old and have an identified elevated blood lead level.



Decision Point: Has the local public health department stated it does not wish to receive from the PHA, a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis? (Model plan, p. 16-4143)

Things to Consider

- At least quarterly, the PHA must report an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s), unless the public health department(s) states that it does not wish to receive such a report.
- The model plan language, assumes that the local health department has stated that they **do not wish** to receive the report. If this is not the case, choose Option 2.
- If you leave the model plan language as is, please ensure that you have on file a statement from your public health department stating that they do not wish to receive the report.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.



Option 2: Delete model plan language and substitute language as shown below.

The PHA provides an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s) on a quarterly basis. The reports are provided for the periods ending March 30th, June 30th, September 30th, and December 31st.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract. **No policy decisions are required.**

16-VIII.B. METHODOLOGY

- Decision Point: How will the PHA determine if it has sufficient funding to issue vouchers, approve moves, and continue assisting all current participants? (Model plan, p. 16-4345)**

Things to Consider

- The methodology for determining “insufficient funding” contained in the model policy is based on information from HUD presentations to industry groups, therefore, it is considered safe harbor.
- The model plan language clarifies that the PHA will make the comparison on a monthly basis, using actual data for the months it is available, and estimates for months the data is not yet available.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the PHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move), based on the funding analysis, the PHA will be considered to have insufficient funding.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

Instructions for Preparing Chapter 16: Program Administration

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. **No policy decisions are required.**

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

This section provides the statutory definitions of five key terms used in VAWA. **No policy decisions are required.**

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

This section explains what the PHA will do to implement the notification provisions in VAWA. These provisions require PHAs to notify HCV participants of their rights under VAWA, including their right to confidentiality.

Instructions for Preparing Chapter 16: Program Administration

Notification to Public



Decision Point: Will the PHA post information about VAWA on its website and in its offices? If so, what information will it post? (Model plan, p. 16-[4749](#))

Things to Consider

- Victims of domestic violence, dating violence, sexual assault, or stalking cannot exercise their rights under VAWA if they don't know about them. Likewise, owners cannot fulfill their obligations under VAWA if they are not aware of what those obligations are. To ensure that information about VAWA is as widely and as readily available as possible, the model policy states that the PHA will post such information both on its website and in its offices. If the PHA does not have a website or cannot post the information there, it should edit the model policy accordingly.
- The model policy states that the PHA will have information about VAWA available in its offices to give to anyone who requests it. While this is not an explicit requirement of VAWA, it helps to ensure that anyone seeking information about the protections afforded by VAWA will be able to obtain it easily.
- The model policy includes two sample notices and three HUD-required forms used in connection with VAWA. These are found as Exhibits 16-1 through 16-5 at the end of the chapter.
 - Exhibit 16-1 is HUD's sample Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD-5380. The PHA must edit this sample form to include PHA-specific information and contact information for local domestic violence service providers.
 - Exhibit 16-2 is the HUD-required Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, Form HUD-5382
 - Exhibit 16-3 is an NMA-revised version of HUD's sample Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5381. The PHA must revise this sample form to reflect PHA-specific information based upon housing types administered by the agency.
 - Exhibit 16-4 is the HUD-required Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD-5383.
 - Exhibit 16-5 is an NMA sample Notice to HCV Owners and Managers. Since this is not a HUD-required form, the PHA may revise it to reflect local policies.
- The other policies in this section fulfill the PHA's notification responsibilities under VAWA. Therefore, the PHA may delete the model policy here if it so chooses.

Instructions for Preparing Chapter 16: Program Administration



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

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

Contact information for local victim advocacy groups or service providers



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 16: Program Administration

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

VAWA requires PHAs to notify program applicants and participants assisted under the HCV program of their rights under this law, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits. A sample notice to both participants and applicants is provided in Exhibit 16-1 of the model administrative plan.



Decision Point: How and when will the PHA provide notification to program applicants and participants? What will the notification contain? (Model plan, p. 16-4850)

Things to Consider

- HCV program applicants and participants who are victims of domestic violence, dating violence, sexual assault, or stalking are protected under VAWA. Since many victims of abuse may not be aware of these protections, the law requires that program applicants and participants be notified about them.
- PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits. The model policy also calls for the PHA to provide applicants with information about VAWA at the time they request an application for housing assistance and at each annual reexamination.
- The model policy includes a cross-reference to the model policy in section 5-I.B, which calls for the PHA to include information about VAWA in the briefing packet. Depending on the policy decision the PHA makes in section 5-I.B, the cross-reference here may need to be removed.
- To ensure that applicants and participants understand their rights under VAWA at the times they may need to exercise them, the model policy also calls for denial and termination notices to include information regarding the protections afforded under VAWA. If changes are made in the model policy here, they may also need to be made in the model policies in sections 3-III.G and 12-II.F.
- The model administrative plan includes as Exhibit 16-1 a HUD sample notice of occupancy rights under VAWA. Since the PHA will be fulfilling its notification obligation if it provides this notice to public housing applicants and tenants, the model policy assumes that the PHA will use this notice (with whatever modifications the PHA wishes to make). The model policy further assumes that the PHA will include with the VAWA notice a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternate Documentation. This is consistent with the VAWA 2013 final rule.

Instructions for Preparing Chapter 16: Program Administration

- Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.*

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

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

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and 16-2.

- Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.*

- Decision Point: Will the PHA take any precautions when delivering VAWA information to a participant following an incident of domestic violence? (Model plan, p. 16-4850)**

Things to Consider

- The model policy follows cautionary guidance provided by HUD in Notice PIH 2017-08, which points out that sending VAWA information to a participant by mail following an incident of domestic violence may put the victim at risk.
- Unless given permission from the victim to do so, the PHA must not leave messages that contain confidential information or refer to VAWA.

Instructions for Preparing Chapter 16: Program Administration



Option 1: Use the model admin plan language shown below. No changes to the model admin plan are needed.

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

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

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



Option 2: Use PHA-established policy. Edit the model admin plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 16: Program Administration

Notification to Owners and Managers

VAWA imposes obligations not only on PHAs but also on owners and managers participating in the HCV program. To ensure that HCV owners and managers are aware of their obligations, the PHA may choose to provide written notification.



Decision Point: Will the PHA provide notification to owners and managers of their rights and obligations under VAWA? (Model plan, p. 16-4951)

Things to Consider

- VAWA no longer requires PHAs to notify owners and managers of their rights and obligations under the law, but PHAs may choose to do so. The model policy calls for the PHA to provide owners and managers with information about VAWA when they begin their participation in the HCV program and at least annually thereafter. Annual reminders will help to ensure that owners and managers remain aware of the special protections afforded to victims of domestic violence, dating violence, sexual assault, and stalking under federal law.
- Exhibit 16-5 in the model administrative plan contains a sample notice, which was provided by HUD in Notice PIH 2017-08, that explains to owners and managers in plain language their rights and obligations under VAWA. For administrative ease, the model policy assumes that the PHA will use this notice (with or without modification) and that it will also provide owners with a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking.
- If the PHA chooses not to provide written information about VAWA to owners and managers, this section may be deleted.



Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternate Documentation.



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

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

This section explains the authority provided by VAWA to request documentation from an individual who asserts a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse.



Decision Point: What will the PHA's request for documentation of domestic violence, dating violence, sexual assault, or stalking contain? (Model plan, p. 16-5052)

Things to Consider

- Policies elsewhere in the model plan state that the PHA will generally request documentation of domestic violence, dating violence, sexual assault, or stalking (see sections 3-III.G, 10-I.A, and 12-II.E). The policy here addresses the contents of the request, including the deadline for submitting documentation.
- The model policy reflects the statutory requirement that any request for documentation be in writing, and adopts the statutory minimum of 14 business days as the deadline for submitting documentation. The PHA has the discretion to allow more than 14 business days from the date the request is received.
- The model policy calls for the PHA's request to describe the three forms of documentation acceptable under VAWA, to provide explicit submission instructions, and to explain the consequences for failure to meet the submission deadline. While such information is not required under VAWA, it will help to ensure the timely submission of appropriate documentation to the appropriate person.
- VAWA gives PHAs the discretion to extend the time allowed for submitting documentation. The model policy does not commit the PHA to exercising this discretion, but allows it the flexibility to do so. The PHA could choose not to offer an extension under any circumstances or could specify the circumstances under which it would approve an extension.
- For the protection of the PHA as well as the individual claiming protection under VAWA, the model policy specifies that any extension of the deadline for submitting documentation must be requested and granted in writing.
- The model policy specifies that an extension, if granted, will be for 10 business days. This is the standard time frame used throughout much of the model administrative plan.

Instructions for Preparing Chapter 16: Program Administration



Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.

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

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

Conflicting Documentation [24 CFR 5.2007(e)]



Decision Point: When two or more individuals from the same household submit conflicting certifications of domestic violence, how will the PHA determine which is the true victim? (Model plan, p. 16-~~51~~[53](#))

Things to Consider

- Although VAWA itself does not anticipate the possibility that two or more individuals from the same household might submit conflicting certifications accusing one another of domestic violence, the VAWA 2013 final rule does. In such cases— or when submitted documentation contains information that conflicts with existing information already available to the PHA—the final rule gives PHAs the authority to request third-party documentation in addition to the certifications provided by the individuals. These are the only two situations under which the PHA may require third-party documentation.
- Given the possible consequences of individuals submitting conflicting documentation, if allegations prove to be false, the PHA may use this information as the basis for a denial of admission or termination of assistance.
- The final rule also states that individuals have 30 calendar days to return third-party verification to the PHA once the PHA makes the request.
- Notice PIH 2017-08 further states that if the PHA does not receive third-party documentation, and the PHA will terminate assistance as a result, the PHA must hold separate hearings for the participants. While the notice does not mention applicants in this context, the model policy extends the same protections to applicants.
- Notice PIH 2017-08 encourages PHAs to provide contact information for local domestic violence agencies to help victims plan for safety and/or provide contact information for local legal aid offices, which may be able to assist in providing appropriate referrals, obtaining restraining orders, and preparing for grievance hearings. The model policy adopts this guidance.
- The PHA may request third-party verification when submitted documentation conflicts with existing information. Examples of reliable information that may conflict with submitted documentation include surveillance footage, police reports, or other verifiable information. However, the PHA is prohibited from conducting further fact finding for the purpose of trying to verify the validity of an applicant or tenant’s victim status, such as conducting interviews with neighbors or employers to determine who the “real” victim is.
- The model policy simply states that the PHA will attempt to determine which is the true victim by exercising this authority and following any guidance that HUD issues on how such determinations should be made (see Notice PIH 2017-08).
- In cases of conflicting information, when the PHA requires an applicant or tenant to submit third-party documentation, the applicant or participant must submit it within 30 calendar days of the date of the request [24 CFR 5.2007(b)(2)].

Instructions for Preparing Chapter 16: Program Administration



Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

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



Decision Point: What will the PHA do if and when it exercises its discretion not to require formal documentation from a victim of domestic violence, dating violence, sexual assault, or stalking? (Model plan, p. 16-[5153](#))

Things to Consider

- While the model administrative plan assumes that the PHA will generally want to request formal documentation of domestic violence, dating violence, sexual assault, or stalking before providing benefits to an individual who claims to be a victim of such abuse, there may be occasions when the PHA determines that a statement by the victim or other corroborating evidence is sufficient.
- The model policy does not try to anticipate the conditions under which the PHA will exercise its discretion to provide benefits to a victim without formal documentation. However, it requires the PHA to document its acceptance of a victim's statement or other corroborating evidence in the victim's file, as recommended in the preamble to the VAWA final rule.
- HUD encourages the PHA to state whether a statement or other evidence will be accepted and to provide a definition of *other evidence* if it is used. In order to provide the broadest possible options, the model policy states that the PHA will accept a statement or other evidence and allows the victim to determine what other evidence may be appropriate.
- In Notice PIH 2017-08, HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.



Option 1: Use the model administrative plan language shown below. No changes to the model administrative plan are needed.

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

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

This section states the consequences for a victim of domestic violence, dating violence, sexual assault, or stalking who fails to provide documentation of abuse in response to a written request by a PHA. **No policy decisions are required.**

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



Decision Point: If the PHA is required to disclose confidential information about a victim, will it inform the victim in advance? (Model plan, p. 16-~~5254~~)

Things to Consider

- VAWA imposes strict confidentiality requirements on PHAs. However, it permits PHAs to disclose information about a victim of domestic violence, dating violence, sexual assault, or stalking if required either for an eviction proceeding or by applicable law.
- Domestic violence advocates encourage PHAs to provide advance notice to a victim whenever the PHAs are required to disclose confidential information about the victim. While this is not a VAWA requirement, it is a sound policy because it helps to protect victims from retaliation by perpetrators of domestic violence.
- The prohibition against entering VAWA information into shared databases does not preclude the PHA from entering this information into a database system used by the PHA that meets all requirements for securing sensitive personally identifiable information, as long as the requirements listed in the model policy and provided in 24 CFR 5.2007(c) are met (i.e., the victim consents to it in writing in a time-limited release).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model administrative plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 16: Program Administration

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan. Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required:

INTRODUCTION

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

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

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

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

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

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

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

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

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

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

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5, FR Notice 1/18/17, and Notice PIH 2017-21]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing [24 CFR 983.52].



Decision Point: Will the PHA operate a PBV program, and if so what percentage of the PHA's authorized units will be allocated to the program? (Model plan, p. 17-3)

Things to Consider

- The model plan language is written for PHAs that will operate a PBV program. If you are not operating a PBV program, this entire chapter (17) should not be included in your administrative plan.
- Prior to determining whether or not to offer a PBV program, PHAs should consider the following:
 - PHAs that operate a PBV program must do so in accordance with their annual plan. In addition the PBV program must support the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. If your PBV program will not meet these requirements, the law prohibits you from operating such a program.
 - The PHA Plan Templates (HUD-50075-ST and other versions) require PHAs operating a PBV program to indicate in their PHA plan any plans to use PBVs, providing the projected number of project-based units and general locations, and describing how project-basing would be consistent with the PHA plan.
- Because this detailed information is already contained in the PHA Plan, it does not need to be repeated in the administrative plan. However, in the model plan language we did include a statement stating that the PHA will use “up to” 20 percent of its authorized units for the PBV program (the statutory maximum), building in flexibility for the PHA.
- Appendix I of Notice PIH 2017-21 contains a sample PBV program cap calculation worksheet.

Instructions for Preparing Chapter 17: Project-Based Vouchers

- While HUD permission is not required to operate a PBV program, no later than 14 calendar days prior to the date the PHA intends to issue a Request for Proposals or makes a selection, the PHA must submit the following information to the HUD field office for review [FR Notice 1/18/17]:
 - The total amount of units authorized under the ACC for the PHA (excluding those PBV units entirely excluded from the cap), including special purpose vouchers, as well as the number of PBV units excluded from the total, if applicable.
 - The number of PBV units entirely excluded from the percentage limitation (as described in Attachment F of Notice PIH 2017-21).
 - The number of units qualifying under the 10 percent program cap exception category (as described in Attachment D of Notice PIH 2017-21).
 - The number of units currently committed to PBV (excluding those entirely excluded from the cap), including units currently under PBV HAP contract, under Agreement to Enter into a HAP contract (AHAP), or covered by a notice of proposal selection. The number of units excluded from the total must also be identified.
 - The number of units to which the PHA is proposing to attach project-based assistance through the new RFP or selection.
- The PHA is responsible for determining the amount of budget authority it has available and ensuring that the amount of assistance that will be attached to the units is available under the ACC, regardless of whether the PHA has vouchers available for project-basing.
- If you know you will be project-basing less than 20 percent of your authorized units for the PBV program, you may select Option 2 and fill in the appropriate percentage (remember, that in no case may it exceed 20 percent). However, if you select a lower percent to start with and later decide to increase the amount of budget authority, the administrative plan will need to be revised to reflect this change. If you adopt the model language, no revision will be necessary.

Instructions for Preparing Chapter 17: Project-Based Vouchers

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

See Exhibit 17-1 for information on projects to which the PHA has attached PBV assistance.

- Option 2: Delete model plan language and substitute language as shown below.*

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

See Exhibit 17-1 for information on projects to which the PHA has attached PBV assistance.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Instructions for Preparing Chapter 17: Project-Based Vouchers

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit if the units are set aside for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or are in areas where vouchers are difficult to use [FR Notice 1/18/17].



Decision Point: Will the PHA project-base any additional units above the 20 percent program limit? (Model plan, p. 17-3)

Things to Consider

- Exception categories only apply to PBV HAP contracts that were first executed on or after April 18, 2017. HAP contracts executed before this date are not eligible for the additional 10 percent exception. Further, exception categories do not apply to units added to a HAP contract that was initially executed prior to April 18, 2017.
- The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For example, if 10 percent of ACC authorized units is 100 units, the PHA may project based 50 units for homeless families and 50 units for veterans.
- The PHA does not need to meet the 20 percent program cap before it can designate eligible units for the 10 percent exception category.
- If the PHA wishes to add units under this exception, the PHA must submit information on the number of units and the exception categories to the HUD Field Office in accordance with section C.2.A of *Federal Register* Notice 1/18/17.
- If the PHA sets aside units for veterans, the PHA may further define *veteran* for purposes of determining unit eligibility. For example, the PHA could require the veteran be eligible to receive supportive services from the Department of Veterans Affairs or that the veteran was not dishonorably discharged. PHAs have discretion in establishing verification of eligibility.
- HUD-VASH vouchers designated for PBV assistance are already excluded from the program cap and are not included in the 10 percent exception category.
- For units designated for homeless individuals and families, detailed definition of *homeless* for purposes of this category can be found in Notice PIH 2017-21.
- For units in census tracts with a poverty rate of 20 percent or less, units continue to qualify for the exception for the length of the HAP contract, regardless of changes in the poverty rate or census tract.

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- If the PHA sets aside units for supportive services for persons with disabilities or elderly persons, the PHA must include the types of services offered to families and the extent to which the services will be provided (e.g., the length of time services will be provided to a family, frequency of services, and depth of services).
 - *Services* could include meal services adequate to meet nutritional need, housekeeping aid, personal assistance, transportation services, health-related services, educational and employment services, or other services designed to help the recipient live in the community as independently as possible.
 - The services do not need to be provided by the owner or on-site, but must be reasonably available to families receiving the assistance.
 - The PHA may not require participation as a condition of living in an excepted unit.
 - The owner may not require the assisted family to pay charges for meals or supportive services, with the exception of at an assisted living facility where owners may charge for meals and services, although these charges may not be included in the rent to owner or the calculation of reasonable rent.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not set aside units above the 20 percent program limit.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17; Notice PIH 2017-21]

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



Decision Point: Will the PHA project-base any units that are not subject to the PBV program limitation? (Model plan, p. 17-4)

Things to Consider

- Units that have previously received either PBV or HCV assistance are not covered under the exception.
- The following categories of units are eligible for this exception:
 - Received Public Housing Capital or Operating Funds;
 - Project-Based Rental Assistance (Section 8 of the act), including units assisted under Section 8 Moderate Rehabilitation (Mod Rehab) and Mod Rehab Single-Room Occupancy (SRO) program;
 - Housing for Elderly (Section 202);
 - Housing for Persons with Disabilities (Section 811);

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- Rent Supplement (Rent Supp) or Rental Assistance Program (RAP);
- Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978)
- Was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811), or Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978)
- In addition, the unit must meet the following applicable conditions to qualify for this exception:

PBV Existing and Rehabilitated Units

- The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017; and
- In the five years prior to the date, the PHA either:
 - o Issued the RFP under which the project was selected; or
 - o Selected the project based on a prior competition or without competition, the unit met at least one form of assistance, or was subject to a rent restriction as described above. If the existing/rehabilitated project was selected based on a prior competition or without competition, then the date of selection used to determine if the five-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR 983.51(d).

PBV New Construction

A newly constructed unit developed under the PBV program may also be excluded from the limitation, provided the unit qualifies as a replacement unit. The unit must meet all of the following requirements to meet this exception to the limitation:

- The unit that the PBV newly constructed unit is replacing (i.e., the original unit) must have received one of the forms of HUD assistance or must have been subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than five years from the date the PHA either:
 - o Issued the RFP under which the PBV new construction project was selected; or
 - o Selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, then the date of selection used to determine if the five-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR 983.51(d).

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- The newly constructed unit is located on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project qualifies as the same site as long as a majority of the replacement units is built back on the site of the original development, and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.
- One of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that previously existed at the site, as evidenced by at least one of the following:
 - o Former residents of the original project are provided with a selection preference that provides the residents with the right of first occupancy at the PBV new construction project; or
 - o Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.
- The HAP contract first became effective on or after April 18, 2017.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not project-base any units not subject to the 20 percent cap.

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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



Decision Point: Which of the PHA's tenant-based voucher policies will also apply to the PBV program? (Model plan, p. 17-5)

Things to Consider

- Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance.
- This chapter of the administrative plan closely follows the PBV program regulations. As a result, there are topics explicitly discussed in this chapter even though the PBV rules and resulting policies are the same as those for the tenant-based voucher program (e.g., abatement of HAP, denial of admission, utility reimbursements).
- On the other hand, there are many topics that are not covered in this chapter because they are not explicitly mentioned in the PBV rule, yet it must be made clear what policies the PHA will follow for the PBV program (e.g., reexaminations, fair housing, program integrity, informal reviews and hearings).
- This policy is intended to minimize the duplication of policies that are the same for the tenant-based voucher and PBV programs, and make clear to PHA staff, owners, and participants that unless prohibited by program regulations or otherwise stated in this chapter, the PHA policies related to tenant-based vouchers also apply to PBV assistance.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

This section describes the PHA's and owner's obligations to relocate persons who are displaced as a result of the PBV program, in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). **No policy decisions are required.**

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

This section describes the PHA's obligation to comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. **No policy decisions are required.**

PART II: SELECTION OF PBV OWNER PROPOSALS

17-II. A. OVERVIEW

This section provides an overview of Part II. **No policy decisions are required.**

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

**Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21;
[24 CFR 983.51\(b\)](#)]**



Decision Point: Will the PHA attach PBVs to structures owned by the PHA through a non-competitive process? (Model plan, p. 17-7)

Things to Consider

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

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will not attach PBVs to projects owned by the PHA as described above.

- Option 2: If the PHA will attach PBVs to projects that meet the above requirements, use the model plan language shown below.*

The PHA intends to project base units noncompetitively in order to replace public housing units in a project in which the PHA has an ownership interest or control at the [insert name of development] development which meet the requirements under HOTMA to select units non-competitively.

The PHA will detail the work it plans to do on the public housing property or site as well as how many units it plans to project-base at the property or site through the annual and/or five-year plan process. [Add relevant information.]

The PHA will ensure that units are eligible for PBV assistance and meet all statutory and regulatory requirements for the PBV program. The existing housing will substantially comply with HQS, which the PHA defines as units with no life-threatening violations that will pass HQS the earlier of [insert number of months] months of PBV HAP contract execution or at the end of the construction period.

The following policies in this chapter on solicitation and selection of owner proposals do not apply to units selected under this option.

~~The PHA intends to project base units non-competitively as described above.~~

- ~~• Under this provision, the PHA may submit a proposal for project-based housing that is owned or controlled by the PHA as described above. If the proposal is for PHA-owned housing, the PHA will use an independent entity approved by HUD as required under the regulations. The PHA will obtain HUD approval of the independent entity prior to selecting the proposal for PHA-owned housing.~~
- ~~• The PHA will detail the work it plans to do on the public housing property or site as well as how many units it plans to project-base at the property or site through the annual and/or five-year plan process.~~
- ~~• The PHA will ensure that any PHA-owned existing housing substantially complies with HQS. The PHA defines *substantially complies with HQS* as units with no life-threatening violations that will pass HQS the earlier of [insert number of months] months of PBV HAP contract execution or at the end of the construction period.~~

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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



Decision Point: How will the PHA request owner proposals for PBV assistance and what selection criteria will be used? (Model plan, p. 17-8)

Things to Consider

- This section of the model plan is written to allow a PHA to follow either of the two approved methods to select proposals (RFP or previous competition) depending on what is appropriate at any given time. This approach provides the PHA with maximum flexibility.
- PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The model language is written to support this requirement.
- For rehabilitated and newly constructed housing, the model plan language follows the advertising standards used in the old project-based certificate program by requiring a notice to appear in a newspaper of general circulation at least one day for three consecutive weeks, and a submission deadline of at least 30 days after the last notice. For existing housing, the model plan language states that the PHA will accept proposals on a first-come first-served basis. No submission deadline is required in this case.
- The model plan states that when applicable, the RFP and proposal submission and rating and ranking procedures will be posted on the PHA's electronic web site. If you do not have a web site or do not intend to post this information, the model plan must be edited accordingly.
- Prior to inviting owners to submit PBV proposals the PHA must develop a request for proposals (RFP). The RFP must identify the type of housing (new construction, rehabilitation, or existing) for which the PHA is requesting proposals, the number of units, and the intended occupancy (families, elderly, special needs populations). The RFP should also identify the census tracts for which owners may submit proposals.
- The PHA request for proposals must also include the PHA selection criteria for rating and ranking proposals. Please note, the model plan language provides the general selection criteria to be used, but does not provide details of rating and ranking (e.g., possible points per criteria, minimum required score). This information should appear in the RFP.

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- For proposals that have already received funding under a previous competition, the model plan language states that the PHA may advertise that it is accepting such proposals. By advertising, the PHA will ensure that as many potential owners as possible are aware of the availability of PBV assistance. However, there may also be times when advertising is not necessary and the PHA may wish to contact owners directly. This circumstance is covered in the model plan language.
- Because proposals that received some federal, state, or local housing assistance under previous competitions will be accepted on an ongoing basis, no time frame for submission is necessary.
- The selection criteria differ in the model plan depending on the method used and the type of housing for which the PHA is requesting proposals. If you want to use different or additional selection criteria to select proposals, the model plan must be edited accordingly.
- If you do not want to make use of both methods or you will not be advertising for all types of eligible housing (existing, new construction, rehabilitated), the model plan should be edited to delete the section(s) of PHA policy that will not apply.
- Please note that in several places the model plan language calls for the PHA to list the newspapers or trade publications that the PHA will use to advertise.

CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

PHA Request for Proposals for Rehabilitated and Newly Constructed Units

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

[Enter the names of the local newspapers of general circulation, and any trade journals that the PHA intends to use]

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

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available.

Proposals will be due in the PHA office by close of business 30 calendar days from the date of the last publication.

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

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

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

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

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

In order to promote partially assisted projects, pProjects w~~herei~~^h less than 25 percent of the units will be assisted will be rated higher than projects w~~herei~~^h 25 percent or more of the units will be assisted.- In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

PHA Request for Proposals for Existing Housing Units

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

[Enter the names of the local newspapers of general circulation, and any trade journals that the PHA intends to use]

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

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

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

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

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

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

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

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

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

[Enter the names of the local newspapers of general circulation, and any trade journals that the PHA intends to use]

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

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

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]



Decision Point: Does the PHA intend to submit proposals for PBV assistance for PHA-owned housing? (Model plan, p. 17-11)

Things to Consider

- Except for certain public housing units, a PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. This also applies to noncompetitive selections.
- The PHA's selection procedures must apply to all PBV proposals and must be designed in a manner that does not effectively eliminate the submission of proposals for non-PHA-owned units or give undue preferential treatment (e.g., additional points) to PHA-owned units.
- In order to be a PHA-owned unit, the PHA must have ownership interest in the building itself, not simply the land beneath the building.
- A unit is considered to be *owned by the PHA* if the unit is in a project that is owned by the PHA (which includes a PHA having "controlling interest" in the entity that owns the unit), owned by an entity wholly controlled by the PHA, or owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing or general partner.
- *Controlling interest* means:
 - Holding more than 50 percent of the stock of any corporation;
 - Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation);
 - Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;
 - Holding more than 50 percent of all managing member interests in an LLC;
 - Holding more than 50 percent of all general partner interests in a partnership; or
 - Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category, a PHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered PHA-owned.

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- A unit is not considered to be owned by the PHA if:
 - The PHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself;
 - The PHA holds only security interest under a mortgage or deed of trust on the unit; or
 - The PHA has only a non-controlling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit.
- If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.
- Noncompetitive selections must also be reviewed to ensure that the selection was done properly, particularly in regard to low-income housing tax credit (LIHTC) project applications not receiving the benefit of a commitment of PBVs by the PHA and that the comparable competition was held within three years of project selection.
- The term of the HAP contract and any HAP-contract renewal must be agreed upon by the PHA and a HUD-approved independent entity.
- HUD also requires an independent agency to determine rent to owner, redetermined rent to owner, and rent reasonableness, in addition to conducting housing quality inspections to avoid any appearance of impropriety.
- Prior to submitting a proposal for PHA-owned units, the PHA must determine if there is any entity that that is approvable by HUD and will be willing to perform the required duties.
- Attachment B of Notice PIH 2017-21 provides detailed information on PHA selection of an independent entity.
- Please note that the model plan language calls for the PHA to identify the name of the independent entity that will review and approve the PHA selection and perform required administrative functions. If you do not plan to submit proposals for PHA-owned units, select Option 2.

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CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. If the proposal for PHA-owned housing is selected, the PHA will use **[insert name of the entity]** to review the PHA selection ~~process and to administer the PBV program~~. The PHA will obtain HUD approval of **[insert name of entity]** prior to selecting the proposal for PHA-owned housing.

Option 2: If you do not plan on submitting proposals for PHA-owned housing, delete the model plan language. No policy is necessary.

Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

Decision Point: How will the PHA notify the selected owner and the public of the final selection? (Model plan, p. 17-12)

Things to Consider

- The PHA is required to notify all interested parties of its final selection of an owner to provide housing under the PBV program and make its selection records and documentation for the basis for selection available for public inspection.
- The model plan language calls for the PHA to announce the selection of PBV proposals in the same newspapers and trade journals that the original advertisement appeared in, as well as on the PHA's electronic web site. If you do not have a web site, the model plan language must be edited to reflect this.
- The model plan gives the PHA 10 business days (the standard time frame used throughout much of the plan) from the date of the PHA's decision to notify those that submitted proposals.
- The model plan states that the rating and ranking documents will be available for review for a period of one month. This is a reasonable period for allowing interested parties to review the information. However, a PHA could choose to change this time frame.
- The model plan states that parties wishing to have copies of any of the selection documents will be charged \$.25 per page. This charge is consistent with what tenants are being charged to make copies of PHA documents. If you have chosen to charge tenants a different amount than \$.25 in Part III of Chapter 16, you may wish to change the charge here as well.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the PHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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

The PHA may use new construction, rehabilitation, or existing housing to develop units under the PBV program. **No policy decisions are required.**

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

Ineligible Housing Types [24 CFR 983.53]

The section identifies the types of units that are not eligible to receive assistance under the PBV program. **No policy decisions are required.**

Subsidized Housing [24 CFR 983.54]

This section identifies the type of subsidized projects that may not receive the benefit of PBV assistance. It includes all types of projects receiving assistance under various HUD subsidy programs as well as projects receiving other types of federal, state or local housing subsidies. **No policy decisions are required.**

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17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08]

The section identifies the subsidy layering requirements. The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13]. **No policy decisions are required.**

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

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 1/18/17, and Notice PIH 2017-21]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project. **No policy decisions are required.**

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

PHAs may exceed the 25 percent cap in excepted units in a project occupied by elderly families, in cases where families that occupy the project will receive supportive services. When the project is located in a census tract with a poverty rate of 20 percent or less, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

Supportive Services



Decision Point: Will the PHA provide PBV assistance in excepted units? (Model plan, p. 17-15)

Things to Consider

- The definition of *excepted unit* differs depending on when the HAP contract was executed. Contracts executed prior to April 18, 2017, follow the “old” statutory PBV requirements for excepted units. Projects where the HAP contract was executed on or after April 18, 2017, follow the new requirements that were implemented as a result of the Housing Opportunity Through Modernization Act (HOTMA).
- Under the “old” statutory regulations, the project cap does not apply to units for:
 - Elderly and/or disabled families
 - Families receiving supportive services. The family must have at least one member receiving at least one qualifying supportive service.
- Under both old and new requirements, elderly families may live in excepted units without the provision of supportive services.
- Under HOTMA, the PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services must be offered, and the family must qualify to receive the supportive services offered. The family may, but is not required to, participate in services. If supportive services are offered, they must be available to all families receiving assistance in the project. The PHA may not rely solely on a supportive service program that would require the family to engage in the service once enrolled, such as FSS [FR Notice 7/14/17].
- In determining whether or not to allow families to reside in excepted units, the PHA should consider the type and nature of housing that will be provided, the needs of the intended recipients, the ability of owners to provide required supportive services on-site or otherwise, or the availability of supportive service providers in the community that could be easily accessible to a project.



Option 1: If you want to exceed the 25 percent cap, but do not wish to require families to receive supportive services, use the model plan language as shown below. No changes to the model plan are needed.

Excepted units will be limited to units for elderly families.

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- Option 2: To offer services to disabled families, other families in need of supportive services, or families participating in the FSS program, delete model plan language and substitute language as shown below.*

The PHA will develop housing for occupancy by families in need of services. This may include disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) program. Families will not be required to accept and receive supportive services for the exception to apply to the unit, although they will be required to be eligible to receive supportive services. The following types of services will be provided depending on the needs of the family:

Meal service adequate to meet nutritional needs;

Housekeeping aid;

Personal assistance;

Transportation services;

Health-related services;

Case management;

Child care;

Educational and employment services;

Job training;

Counseling; or

Other services designed to help the recipient live in the community as independently as possible.

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

If the family becomes ineligible for the supportive service during their tenancy (for reasons other than successfully completing the supportive service objective), the unit will no longer be considered an excepted unit. If the family is ineligible for all supportive services that are made available at the project, the PHA may do any of the following:

Reduce the number of excepted units

Substitute the excepted unit for a non-excepted unit

Temporarily remove the unit from the PBV HAP contract and provide the family with tenant-based assistance

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- Option 3: To offer services only to disabled families, delete model plan language and substitute language as shown below.*

The PHA will develop housing for occupancy by disabled families in need of services. The following types of services will be provided depending on the needs of the family:

Transportation for activities such as grocery shopping, attending medical and dental appointments;

Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Training in housekeeping and homemaking activities;

Family budgeting;

Child care;

Parenting skills;

Computer labs; and

Work skills development and job training.

- Option 4: Delete model plan language and substitute language as shown below.*

The PHA will not provide PBV assistance for excepted units.

- Option 5: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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



Decision Point: Does the PHA have any projects that meet the exception to the per project cap, and if so, will the PHA project-base 100 percent of the units in these projects? (Model plan, p. 17-16)

Things to Consider:

- The following categories of units are eligible for this exception:
 - Received Public Housing Capital or Operating Funds;
 - Project-Based Rental Assistance (Section 8 of the act), including units assisted under Section 8 Moderate Rehabilitation (Mod Rehab) and Mod Rehab Single-Room Occupancy (SRO) program;
 - Housing for Elderly (Section 202);
 - Housing for Persons with Disabilities (Section 811);
 - Rent Supplement (Rent Supp) or Rental Assistance Program (RAP);
 - Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978)
 - Was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811), or Flexible Subsidy Program (Section 201 of the Housing and Community Development Amendments of 1978)

- In addition, the unit must meet the following applicable conditions to qualify for this exception:

PBV Existing and Rehabilitated Units

- The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017; and
- In the five years prior to the date the PHA either:
 - o Issued the RFP under which the project was selected, or
 - o Selected the project based on a prior competition or without competition, the unit met at least one form of assistance, or was subject to a rent restriction as described above. If the existing/rehabilitated project was selected based on a prior competition or without competition, then the date of selection used to determine if the five-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR 983.51(d).

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PBV New Construction

A newly constructed unit developed under the PBV program may also be excluded from the limitation, provided the unit qualifies as a replacement unit. The unit must meet all of the following requirements to meet this exception to the limitation:

- The unit that the PBV newly constructed unit is replacing (i.e., the original unit) must have received one of the forms of HUD assistance or must have been subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than five years from the date the PHA either:
 - o Issued the RFP under which the PBV new construction project was selected; or
 - o Selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, then the date of selection used to determine if the five-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR 983.51(d).
- The newly constructed unit is located on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project qualifies as the same site as long as a majority of the replacement units is built back on the site of the original development, and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.
- One of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that previously existed at the site, as evidenced by at least one of the following:
 - o Former residents of the original project are provided with a selection preference that provides the residents with the right of first occupancy at the PBV new construction project; or
 - o Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.
- The HAP contract first became effective on or after April 18, 2017.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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



Decision Point: Will the PHA impose any further cap on excepted units?

(Model plan, p. 17-16)

Things to Consider

- The PBV program allows the PHA to establish additional requirements to promote PBV assistance in partially-assisted projects. For example, the PHA is allowed to set a lower cap than 25 units or 25 percent of the number of PBV units in a project or may cap excepted units at some level that is lower than 100 percent.
- If the PHA is soliciting proposals for a small number of units, imposing a cap of less than 25 percent may not be feasible or desirable.
- If the PHA plans to solicit proposals for a small number of excepted units for elderly families, disabled families or for families participating in supportive services, imposing a cap of less than 100 percent may not be feasible or desirable.
- If the PHA plans to solicit proposals for existing housing, capping the units at less than 25 percent is practical and would help achieve income mixing and the deconcentration of assisted families.
- Establishing a lower cap for newly constructed or rehabilitated housing may discourage owners from submitting proposals. Owners submitting proposals for excepted units may be relying on the fact that all of the units will receive PBV assistance in order to make the project feasible.
- Based on local housing conditions the PHA may modify the bracketed [] amounts in Options 2 and 3 to reflect local housing needs and objectives.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Excepted units will be limited to units for elderly families.

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

- Option 2: Delete model plan language and substitute language as shown below. Numbers in brackets may be modified.*

The PHA will impose a [50] percent cap on excepted units in multifamily projects.

- Option 3: Delete model plan language and substitute language as shown below. Numbers in brackets may be modified.*

The PHA will impose a [10] percent cap on projects that qualify as existing housing. This cap may be lifted to 25 percent for projects located in census tracts with less than [20] percent poverty concentrations.

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

17-II.G. SITE SELECTION STANDARDS

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

The PHA must select sites in accordance with the goals established in PHA plan and the site and neighborhood standards established by HUD.



Decision Point: What standards will the PHA establish to ensure the site selected is consistent with the requirement to deconcentrate poverty and expand housing and economic opportunities? (Model plan, p. 17-17)

Things to Consider

- In developing the standards to apply in determining whether a proposed PBV development will be selected, a PHA must consider the following:
 - Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
 - Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;
 - Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;
 - Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;
 - Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;
 - If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the PHA should consider whether in the past five years there has been an overall decline in the poverty rate; and
 - Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located.
- The model plan language takes all of the above issues into consideration.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

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

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

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

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

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

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

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

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- Option 2: Delete model plan language and substitute language as shown below.*

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

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

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

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

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

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

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

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

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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

This section describes the site and neighborhood standards for existing and rehabilitated housing. **No policy decisions are required.**

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

This section describes the site and neighborhood standards for newly constructed housing. **No policy decisions are required.**

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

This section specifies that activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements (24 CFR 983.58). **No policy decisions are required.**

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PART III: DWELLING UNITS

17-III.A. OVERVIEW

This section provides an overview for Part III. **No policy decisions are required.**

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

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

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program. **No policy decisions are required.**

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

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program. **No policy decisions are required.**

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

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR 8. **No policy decisions are required.**

17-III.D. INSPECTING UNITS

This section identifies special inspection requirements for the PBV program including pre-selection, pre-HAP, turnover, annual/biennial, and other inspections. In addition, it explains requirements related to the inspection of PHA-owned units.

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

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. **No policy decisions are required.**

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

The PHA must inspect each contract unit before execution of the HAP contract. ~~The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions or if the unit passed an alternative inspection. No policy decisions are required.~~



Decision Point: Will the PHA require units to pass HQS inspection prior to approving tenancy? (Model plan, p. 17-22)

Things to Consider

- The regulations now allow PHAs to enter into a HAP contract when a unit or units fail HQS as long as the conditions do not meet the definition of *life-threatening* found in Notice PIH 2017-20 and the PHA's administrative plan.
- If the PHA chooses to adopt this policy, the administrative plan must specify the circumstances under which the PHA will approve tenancy for a unit that fails the initial HQS inspection as a result of only non-life threatening conditions and the circumstances under which a PHA will require the unit meet all HQS standards before entering into a PBV HAP contract for the unit.
- If the PHA adopts this policy, they must include HUD's definitions of *non-life-threatening conditions* and *life-threatening conditions* found in Notice PIH 2017-20, although additional conditions may also be identified PHA policy. If the PHA adopts this policy, Option 2 states that the PHA will use the same definition of *life-threatening* identified in Section 8-I.C., Life Threatening Conditions.
- Further, if the PHA adopts this policy, the PHA must withhold any HAP if the non-life-threatening conditions are not remedied within 30 days of the PHA's written notice to the owner. For ease of administration, Option 2 states that the same process will be used for the project-based and tenant-based programs which is identified in Section 8-II.B., Initial HQS Inspection.

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- The PHA may adopt the same policy for both its tenant-based and project-based programs or may adopt different policies for its project-based program.
- However, since PBV regulations previously required that all units comply with HQS prior to providing assistance to the family, Option 1 states that the PHA will require all units to comply with HQS prior to providing assistance.
- Per FR Notice 1/18/17 and PIH Notice 2017-20, the PHA may also allow occupancy of a unit prior to the inspection being completed if the unit had in the previous 24 months passed an alternative inspection, such as an inspection under the LIHTC or HOME programs. If the PHA adopts this policy, the *Federal Register* notice states the PHA must inspect the unit within 15 days of receiving the Request for Tenancy Approval (RFTA). There is no RFTA in the PBV program, and the notice does not provide an alternative for the PBV program. Therefore, a model policy has not been provided under this option since the start of the 15-day window has not been defined by HUD.

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

Option 2: Delete model plan language and substitute language as shown below.

The PHA will approve tenancy in a unit when the unit fails the HQS inspection as a result of only non-life-threatening conditions. The owner must correct these deficiencies within 30 days of the written notice from the PHA.

Life-threatening conditions are defined in Section 8-I.C., Life-Threatening Conditions. Non-life threatening conditions are defined as any conditions that would fail to meet the Housing Quality Standards under 24 CFR 982.401 and do not meet the definition of life-threatening.

When non-life-threatening deficiencies are not remedied within 30 days of the PHA's written notice to the owner of the unit's failure to comply with HQS, the PHA will follow the same policies for abatement of HAP as it does for the tenant-based HCV program, which are outlined in Section 8-II.B., Initial HQS Inspection.

Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. **No policy decisions are required.** ~~The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.~~

Decision Point: ~~Will the PHA require turnover units to pass HQS inspection prior to approving tenancy? (Model plan, p. 17-22)~~

Things to Consider

- ~~The regulations now allow PHAs to approve occupancy and the execution of a lease when a unit or units fail HQS as long as the conditions do not meet the definition of *life-threatening* found in Notice PIH 2017-20 and the PHA's administrative plan.~~
- ~~If the PHA chooses to adopt this policy, the administrative plan must specify the circumstances under which the PHA approve tenancy for a unit that fails the initial HQS inspection as a result of only non-life-threatening conditions and the circumstances under which a PHA will require the unit meet all HQS standards before approving tenancy.~~
- ~~If the PHA adopts this policy, they must include HUD's definitions of *non-life-threatening conditions* and *life-threatening conditions* found in Notice PIH 2017-20, although additional conditions may also be identified PHA policy. If the PHA adopts this policy, Option 2 states that the PHA will use the same definition of *life-threatening* identified in Section 8 I.C., Life-Threatening Conditions.~~
- ~~Further, if the PHA adopts this policy, the PHA must withhold any HAP if the non-life-threatening conditions are not remedied within 30 days of the PHA's written notice to the owner. For ease of administration, Option 2 states that the same process will be used for the project-based and tenant-based programs which is identified in Section 8 H.B., Initial HQS Inspection.~~
- ~~This policy may be applied to all of the PHA's initial inspections or only to a portion.~~
- ~~Further, the PHA may adopt the same policy for both its tenant-based and project-based programs or may adopt different policies for its project-based program.~~
- ~~However, since PBV regulations previously required that all units comply with HQS prior to providing assistance to the family, Option 1 states that the PHA will require all turnover units comply with HQS prior to providing assistance.~~

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- ~~Per FR Notice 1/18/17 and PIH Notice 2017-20, the PHA may also allow occupancy of a unit prior to the inspection being completed if the unit had in the previous 24 months passed an alternative inspection, such as an inspection under the LIHTC or HOME programs. If the PHA adopts this policy, the *Federal Register* notice states the PHA must inspect the unit within 15 days of receiving the Request for Tenancy Approval (RFTA). There is no RFTA in the PBV program, and the notice does not provide an alternative for the PBV program. Therefore, a model policy has not been provided under this option since the start of the 15-day window has not been defined by HUD.~~

~~*Option 1: Use the model plan language shown below. No changes to the model plan are needed.*~~

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

~~*Option 2: Delete model plan language and substitute language as shown below.*~~

~~The PHA will approve tenancy in a turnover unit when the unit fails the turnover HQS inspection as a result of only non-life threatening conditions. The owner must correct these deficiencies within 30 days of the written notice from the PHA.~~

~~*Life-threatening conditions* are defined in Section 8-I.C., *Life Threatening Conditions*. *Non-life threatening conditions* are defined as any conditions that would fail to meet the Housing Quality Standards under 24 CFR 982.401 and do not meet the definition of *life-threatening*.~~

~~When non-life-threatening deficiencies are not remedied within 30 days of the PHA's written notice to the owner of the unit's failure to comply with HQS, the PHA will follow the same policies for abatement of HAP as it does for the tenant-based HCV program, which are outlined in Section 8-II.B., Initial HQS Inspection.~~

~~*Option 3: Use PHA established policy. Edit the model plan language or delete it and insert the PHA's policy.*~~

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Annual/Biennial Inspections [24 CFR 983.103(d)]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.



Decision Point: How often will the PHA inspect a random sample to determine if contract units and the premises are maintained in accordance with HQS? (Model plan, p. 17-22)

Things to Consider

- The regulations now require that units must be inspected “at least biennially.” PHAs that choose to continue to inspect units annually must revise their policies since this is now a discretionary option.
- PHAs may employ both annual and biennial inspections as long as the criteria are fair and are applied uniformly.
- HUD discourages agencies from adopting biennial inspections for reasons unrelated to the owner’s record of HQS compliance. For example, a policy based on the unit’s distance from PHA facilities would not be acceptable.
- Because PHAs are only required to inspect a random sample of at least 20 percent of contract units, the default policy keeps inspections at the annual basis because the inspection burden is already less than it would be in the tenant-based HCV program.
- On the other hand, if the PHA is conducting biennial inspections in the tenant-based HCV program and the PHA wishes to mirror HCV inspection requirements, Option 2 would allow PHAs to conduct inspections biennially rather than annually.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will inspect once every 24 months a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Other Inspections [24 CFR 983.103(e)]

This subsection summarizes when other inspections are needed. **No policy decisions are required.**

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

In the case of PHA-owned units, the inspections must be performed by an independent entity agency designated by the PHA and approved by HUD. **No policy decisions are required.**

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

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

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

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

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

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The Agreement must be signed before any construction work or rehabilitation work has started. **No policy decisions are required.**

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

This section describes the items that must be included in the agreement to enter into HAP contract. **No policy decisions are required.**

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Execution of the Agreement [24 CFR 983.153, FR Notice 11/24/08]



Decision Point: When will the PHA execute the agreement to enter into HAP contract? (Model plan, p. 17-26)

Things to Consider

- The regulations state that the Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. However, the regulations also state that the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. Finally, the PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission.
- However, in the case of a HAP contract for existing housing, or if the applicable state or local agency has already conducted such a review, the PHA does not need to conduct a subsidy layering review. Similarly, environmental reviews are not required for existing structure unless otherwise required by law or regulation.
- The model plan language clarifies that “promptly” is defined by the PHA as 10 business days following the approval of the subsidy layering and environmental reviews. This is the standard time frame used throughout most of the plan.
- Since all construction and rehabilitation work must be completed in accordance with the Agreement, the Agreement must be signed before the start of construction or rehabilitation. The model plan language reinforces this requirement.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

This section describes the requirement that if an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing.

In addition, the owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. **No policy decisions are required.**

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements. **No policy decisions are required.**

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

This section describes the requirement for the owner to certify that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs. Any conflict of interest must also be disclosed. **No policy decisions are required.**

17-IV.D. COMPLETION OF HOUSING

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

Evidence of Completion [24 CFR 983.155(b)]



Decision Point: Will the PHA require the owner to submit documentation in addition to that required by the regulations as evidence of housing completion? (Model plan, p. 17-28)

Things to Consider

- The owner must submit certain evidence of completion to the PHA. However, the PHA may require the owner to submit additional information.
- Additional documentation may include items such as a certificate of occupancy or other evidence that the units comply with local requirements; and an architect's certification that the housing complies with HQS, building codes, zoning, or work specifications.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

PHA Acceptance of Completed Units [24 CFR 983.156]

This section describes what the PHA must do prior to accepting the completed units and entering into the HAP contract with the owner. **No policy decisions are required.**

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

This section provides an overview of Part V. **No policy decisions are required.**

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

This section describes the information that must be included in a PBV HAP Contract. **No policy decisions are required.**

Execution of the HAP Contract [24 CFR 983.204]



Decision Point: When will the PHA execute the HAP contract? (Model plan, p. 17-30)

Things to Consider

- The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.
- For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing, the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.
- The model plan language clarifies that “promptly” is defined by the PHA as within 10 business days of the applicable requirements being met, as determined by the PHA.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

For existing housing, the HAP contract will be executed within 10 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]



Decision Point: What term will the PHA offer for its PBV HAP contracts?

(Model plan, p. 17-30)

Things to Consider

- The PHA may enter into a PBV HAP contract for a minimum of one year and a maximum of 20 years.
- There are many factors that may influence the length of a HAP contract term, such as availability of PHA funding and the interests of the owner. To account for this, the model plan language does not identify a specific term for all HAP contracts, but rather it makes clear that the term of the HAP contract will be negotiated with the owner on a case-by-case basis.
- The Housing Opportunity through Modernization Act of 2016 (HOTMA) changes the limitation on the initial term of the HAP contract from 15 years to 20 years. For PHAs and owners with HAP contracts in effect prior to the implementation of this provision of HOTMA (April 18, 2017), if contracts are still in the initial term, the term may be extended to a maximum initial term of 20 years by mutual consent, and then may subsequently be extended for additional 20 years, for a maximum of 40 years. PHAs and owners with HAP contracts that are no longer in the initial term may mutually agree to extend the contract for total extension term of 20 years.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: What circumstances should the PHA consider when determining whether or not to extend the term of a HAP contract? (Model plan, p. 17-31)

Things to Consider

- Just like the initial term of a HAP contract, the PHA needs flexibility to determine whether or not a HAP contract will be extended.
- Identifying the types of factors the PHA will consider in making its decision makes the process more transparent and illustrates to affected owners and residents that the PHA will follow a decision making process that is fair and reasonable.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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

The condition of the contract units;

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

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

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Termination by PHA [24 CFR 983.205(c)]

This section describes the circumstance under which the PHA may terminate a PBV HAP contract. **No policy decisions are required.**

Termination by Owner [24 CFR 983.205(d)]

This section describes the circumstance under which an owner may terminate a PBV HAP contract. **No policy decisions are required.**

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]

This section describes owner notice requirements when the HAP contract terminates or the owner refuses to renew the HAP contract. **No policy decisions are required.**

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

The PHA may not make any HAP payment to the owner for a contract unit during any period for which the unit does not comply with HQS.



Decision Point: What policies will the PHA follow regarding abatement of HAP and HAP contract termination due to owner non-compliance with HQS? (Model plan, p. 17-32)

Things to Consider

- The PHA has already developed policies regarding this issue for its tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion for owners and staff



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

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

This section describes the circumstances under which a PHA may amend a HAP contract to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. **No policy decisions are required.**

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed.



Decision Point: Will the PHA add units to the HAP contract? If so, what rationale does the PHA have for adding these particular units? (Model plan, p. 17-33)

Things to Consider

- Since HUD requires that the PHA include its rationale for why units will be added to a particular project, no model policy has been included for this option. The rationale for such a policy would be project-specific. Option 1 states that PHA will not add units to the HAP contract. If the PHA wishes to add units, the PHA must add its own language under Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not add contract units to the HAP contract.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

This section explains the term HAP contract year and describes how HAP anniversary and expiration dates are determined, including cases where contract units are placed under the HAP contract in stages, or units are added by amendment. **No policy decisions are required.**

17-V.E. OWNER'S RESPONSIBILITIES UNDER THE HAP CONTRACT **[24 CFR 983.210]**

This section describes the items to which an owner certifies when the owner executes the HAP contract and at all times during the term of the HAP contract. **No policy decisions are required.**

17-V.F. ADDITIONAL HAP REQUIREMENTS

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



Decision Point: Will the PHA include additional housing quality requirements for owner compliance in the HAP contract? (Model plan, p. 17-35)

Things to Consider

- The PHA may include additional requirements to assure compliance with any design, architecture, or quality requirement specified in the agreement to enter into HAP contract.
- Any special requirements must be in addition to, not in place of, compliance with HQS.
- If the housing will be occupied by elderly or disabled persons, the PHA may want to specify special design features, such as grab bars in the bathroom, wider doorways for wheelchair accessibility, and lower counter tops and cabinets in the kitchen.
- If the units will be occupied by persons receiving services, the PHA may want to specify that space is provided on-site for the provision of services.
- If the units will be occupied for families with children, the PHA may want to specify that play areas and appropriate play equipment are provided.
- The PHA may also want to specify that the building contain training spaces, such as a computer lab.
- Because the need for additional requirements will be specific to a particular project, the model plan language clarifies that the PHA will consider the need on a case-by-case basis, and add the requirements only when it is appropriate or necessary.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Vacancy Payments [24 CFR 983.352(b)]



Decision Point: Will the HAP contract provide for vacancy payments to the owner, and if so, what amount will be paid and for what period? (Model plan, p. 17-35)

Things to Consider

- The PHA is not required to offer vacancy payments. Therefore, PHAs should treat it as a point of negotiation with each owner. The model language reflects this flexibility.
- A vacancy payment may only be made for a maximum of two months and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).
- Within these regulatory limits, the PHA still has discretion. For example, the PHA could negotiate a maximum payment of 50 percent of the monthly rent to owner for a period of one month.
- The model language clarifies that if vacancy payments will be made, this information, including the amount of the payment and period for which the payments will be made, will be added to the HAP contract.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A OVERVIEW

This section provides an overview of Part VI. **No policy decisions are required.**

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

The PHA may select families for the PBV program from those who are participants in the PHA’s tenant-based voucher program and from those who have applied for admission to the voucher program.

- Decision Point:** What policies will the PHA follow for determining the eligibility of applicants for PBV assistance? (Model plan, p. 17-37)

Things to Consider

- The PHA has already developed policies for determining eligibility for the tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion.
- If Chapter 3 contains discretionary eligibility requirements for the tenant-based voucher program that you do not want to use for the PBV program, any exceptions or differences in the policies should be listed here (see Option 2).

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will determine an applicant family’s eligibility for the PBV program in accordance with the policies in Chapter 3, with the following exceptions:

[Insert list of exceptions from Chapter 3]

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.*

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

This section describes the regulatory protections for families living in units selected for project-based assistance on the date a PBV proposal is selected. Eligible in-place families must be given an absolute preference for admission to the PBV units. **No policy decisions are required.**

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]



Decision Point: Will the PHA establish a separate waiting list for admission to PBV units, and if so, will the list be for the PHA's whole PBV program or will separate lists be established for individual projects or buildings? (Model plan, p. 17-39)

Things to Consider

- It is easier to manage and administer a PBV waiting list that is separate from the tenant-based voucher waiting list.
- Likewise, if a PHA has more than one development with project-based PBV assistance, it may be easier to manage a separate waiting list for each development, particularly if the PHA wants to provide preferences for occupancy of specific units.
- If the PHA establishes a separate PBV waiting list, the PHA must offer to place applicants listed on the waiting list for tenant-based vouchers on the waiting list for PBV assistance.
- If a PHA has multiple PBV projects aimed at serving specific populations and will have services onsite to serve these populations, establishing separate waiting lists for these projects may be necessary so that specific preferences for families needing these services can be provided for different projects/buildings.
- The PHA may place families referred by a PBV owner on its PBV waiting list.
- The model plan language requires you to insert information here based on your local circumstances.
- If you want to establish a separate PBV waiting list that is PHA-wide rather than for each project or development, select Option 2.
- If you want to use the same waiting list for tenant-based and project-based vouchers, select Option 3.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. The PHA currently has waiting lists for the following PBV projects:

[Insert list of project/buildings receiving PBV assistance for which separate waiting lists are maintained]

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will establish a separate waiting list for the PHA's entire PBV program.

- Option 3: Delete model plan language and substitute language as shown below.*

The PHA will use one waiting list for both the tenant-based and project-based voucher programs.

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list.

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

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

No policy decisions are required.

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

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner. **No policy decisions are required.**

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



Decision Point: Will the PHA establish criteria or preferences for the occupancy of PBV units? (Model plan, p. 17-40)

Things to Consider

- The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.
- The preferences offered by a PHA (if any) will depend on the local housing needs, the type of housing that is receiving project-based assistance, whether services are being offered, and whether the housing is intended for particular populations (e.g., victims of domestic violence, homeless, disabled, elderly, etc.).
- The PHA may offer a preference for individuals who qualify for voluntary services offered in connection with units. The services may or may not include disability-specific services.
- Even if the preference is adopted, participation in services is still voluntary. Program beneficiaries who receive housing because of the preference still have the ability to receive voluntary services from a service provider of their choosing, or not to participate in services at all. If the individual chooses to no longer participate or no longer qualify, they may not subsequently be denied continued housing opportunity.
- Preferences may not be given to persons with a specific disability.
- Examples of this type of preference may include a preference for persons who qualify for employment assistance or transportation services, or for a person who qualifies for housekeeping assistance, case management, or outpatient health services.
- If the PHA adopts a disability-specific service, the PHA must consider how to implement the preference consistent with Section 504 and the Americans with Disabilities Act (ADA), and their implementing regulations. Regulations require that the PHA ensures that the person with disabilities can interact with persons without disabilities to the fullest extent possible in an integrated housing setting.
- Further, the Fair Housing Act and related regulations require a dispersion of units occupied by individuals with disabilities, and that the owner not assign individuals with disabilities to a particular section or floor of a building.
- Also, a PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require the individuals be transitioned to different projects based on service needs.

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- Preferences make the waiting list management process more complex and difficult to administer. They may also make the selection process harder for families to understand.
- Selection preferences may prevent certain families without preference from ever being selected for PBV assistance.
- Because preferences are specific to particular PHAs and dependent on local conditions, and local PBV programs, the model plan does not include any preferences.
- The model language states that the PHA will offer preferences in certain circumstances required by the regulation. Restating these requirements in PHA policy may not be necessary, but it provides a reminder to staff and applicants that certain selection preferences are required.
- If you have separate PBV waiting lists by project or development, and have preferences for these waiting lists, select Option 2.
- If you have one PHA-wide PBV waiting list with preferences, select Option 3.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The PHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impairments for accessible units). The following additional preferences have been established for the following projects, buildings, or sets of units:

[Insert List of Projects/Buildings with corresponding Preferences]

- Option 3: Delete model plan language and substitute language as shown below.*

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The following additional preferences have been established for the PBV program:

[Insert List of Preferences]

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

17-VLE. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)]

This section describes the actions the PHA is prohibited from taking against a family who has applied for, received, or refused an offer of PBV assistance. **No policy decisions are required.**

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

This section describes actions the PHA is prohibited from taking when a landlord disapproves a tenant for occupancy. **No policy decisions are required.**

Acceptance of Offer [24 CFR 983.252]

Family Briefing

This section describes the PHA's obligation to conduct an oral briefing and provide the family with a briefing packet for those families that have accepted a unit offer. **No policy decisions are required.**

Persons with Disabilities

This section describes the PHA's obligation to make sure information is provided in an accessible format to persons with disabilities and to have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit. **No policy decisions are required (see relevant policies in Chapter 2).**

Persons with Limited English Proficiency

This section describes the PHA's obligation to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. **No policy decisions are required (see relevant policies in Chapter 2).**

17-VLF. OWNER SELECTION OF TENANTS

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

Leasing [24 CFR 983.253(a)]

This section describes the requirements for who can lease contract units. **No policy decisions are required.**

Filling Vacancies [24 CFR 983.254]

This section describes the owner's obligation to notify the PHA about vacancies in contract units, and the PHA's obligation to refer families to the owner to fill such vacancies. It also describes what action the PHA can take if a contract unit has been vacant for 120 days or more.



Decision Point: How quickly must the owner notify the PHA of a vacancy or expected vacancy and in what format must the notice be given? (Model plan, p. 17-42)

Things to Consider

- The regulation states that the owner must “promptly” notify the PHA of any expected vacancy or vacancy in a contract unit.
- To minimize vacancy days and avoid making vacancy payments (if applicable) for units that are unoccupied, it is important for the PHA to know about vacancies as soon as possible. This will allow the PHA to refer a sufficient number of families to the owner as quickly as possible.
- Although the standard of providing notice of 10 business days is used throughout much of the model plan, due to the time sensitive nature of this information, the model plan gives the owner five business days to provide this information to the PHA.
- The model plan calls for the notice to be in writing (via mail, fax, or email). It is important for the PHA to have this information in writing, so that if a unit is vacant for 120 days or more from the owner notice of vacancy, the PHA can take action to reduce the number of contract units under the PBV HAP based on this written documentation.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: How quickly must the PHA refer a sufficient number of families for the owner to fill a vacancy? (Model plan, p. 17-42)

Things to Consider

- The regulation states that the PHA must make every reasonable effort to refer “promptly” a sufficient number of families for the owner to fill vacancies.
- To minimize vacancy days and avoid making vacancy payments (if applicable) for units that are unoccupied, it is important for the PHA to refer eligible families to the owner as quickly as possible.
- The model plan language states that the PHA will make every reasonable effort to refer families to an owner within 10 business days. If the PHA has not already determined the final eligibility of those at the top of the waiting list, or at least started the final eligibility determination process, 10 business days may not be long enough. However, the use of the phrase “every reasonable effort” protects the PHA in cases where the time frame is missed (this phrase is taken directly from the regulations).
- On the other hand, if the PHA waits too long to refer families to the owner, the unit may remain vacant, potentially causing the owner to lose money (if the HAP contract does not call for vacancy payments to be made).
- Whatever time frame is established, it should be realistic and provide balance between the PHA’s need for time to determine final eligibility of those being referred, and the owner’s need to fill the vacancy as soon as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.



Option 2: Delete model plan language. Fill in the blank and substitute language as shown below.

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



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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



Decision Point: Will the PHA amend the HAP contract by reducing the number of contract units (according to bedroom size) for units that have been vacant for 120 days or more? (Model plan, p. 17-42)

Things to Consider

- If the PHA has made a good faith effort in referring eligible families to an owner, and a contract unit remains vacant for 120 days or more, the regulations allow the PHA to amend the HAP contract by subtracting the number of contract units that have been vacant for this period.
- If the PHA and owner have been unable to fill a vacancy for 120 days or more, it may be an indication that the subsidy could be better used in a different project or for use as a tenant-based voucher. Amending the HAP frees up this money for the PHA to put to better use assisting families.
- If the PHA does not amend the HAP contract after a contract unit has been vacant for 120 days or more, the money used to assist this unit is unavailable for other uses, yet it is not being utilized.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: When will the amendment to the HAP contract be effective? (Model plan, p. 17-42)



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The amendment to the HAP contract will be effective the 1st day of the month following the date of the PHA's notice.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

17-VLG. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

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



Decision Point: Will the PHA conduct screening to determine the applicant's suitability as a tenant? (Model plan, p. 17-43)

Things to Consider

- In Section 3-III.D., the model plan states that the PHA will not conduct screening for suitability for applicants receiving tenant-based vouchers.
- For administrative ease, whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 3-III.D., you have adopted a policy that the PHA will screen for suitability, you may wish to adopt that same policy here. Again, this keeps the policies between the two programs as consistent as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.



Decision Point: When will the PHA provide required information to the landlord, and will the PHA provide owners with information about a prospective tenant's past history beyond that required by HUD regulations? (Model plan, p. 17-43)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 3-III.D. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 3-III.D., you did not adopt the model plan language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Owner Responsibility

This section states that is the responsibility of the owner to screen for suitability of tenancy, and describes the factors that the owner can consider in doing so. **No policy decisions are required.**

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

This section is an overview of Part VII. **No policy decisions are required.**

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

Form of Lease



Decision Point: Will the PHA review the proposed dwelling lease for consistency with state and local law and, if so, how will this determination be made and communicated to the owner? (Model plan, p. 17-45)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 9-I.E. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 9-I.E., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 9-I.E., PHA Review of the Lease, in the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not review the owner's lease for compliance with state or local law.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Lease Requirements [24 CFR 983.256(c)]

This section describes required lease provisions. **No policy decisions are required.**

Tenancy Addendum [24 CFR 983.256(d)]

This section describes the requirements related to the HUD-prescribed tenancy addendum. **No policy decisions are required.**

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

This section describes the requirements for the initial term of the lease and lease renewal. **No policy decisions are required.**

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

This section describes the provisions governing changes to the lease. **No policy decisions are required.**

Owner Termination of Tenancy [24 CFR 983.257]

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

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

This section describes the owner’s right to determine how long a family may be absent from the contract unit. **No policy decisions are required.**

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

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

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Decision Point: How will the PHA treat changes in family circumstances that occur within this 180 day period, and when must families report these changes? (Model plan, p. 17-47)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 12-I.B. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 12-I.B., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 12-I.B. Family No Longer Requires Assistance, of the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Security Deposits [24 CFR 983.259]



Decision Point: What limits will the PHA place on the amount of security deposit the owner is allowed to collect from the family? (Model plan, p. 17-48)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 9-I.E. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 9-I.E., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 9-I.E. Security Deposits, of the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.



Option 2: Delete the model plan language. Substitute the language below.

The PHA prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

17-VII.C. MOVES

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



Decision Point: If the family is required to move because they are occupying 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 does require the features, what type of assistance will the family be offered and when will the family and owner be notified? (Model plan, p. 17-49)

Things to Consider

- The regulations state that when the PHA discovers a family is in the wrong size unit, or in a unit with accessibility features that they do not need (and someone else does), the PHA must “promptly” notify the family and the owner. For administrative ease, the policy states that the PHA will notify the owner and family within 10 business days (the standard used throughout most of the plan) of the PHA making this determination.
- The regulations state that the PHA policy on offering continued housing assistance must be stated in the administrative plan. In addition, it lists the following forms of housing assistance that can be offered:
 - PBV assistance in the same project or in another project;
 - Other project-based housing assistance (e.g., public housing);
 - Tenant-based rental assistance under the voucher program; and
 - Other comparable public or private tenant-based assistance (e.g., under the HOME program).
- The model plan language calls for a family to first be offered PBV assistance in the same building or project. This may be the best alternative for the family because it keeps them in the same general location where services they need may be available, and allows children to stay in the same schools.
- If an appropriate size unit is not available in the same building or project, the model plan language states that families will be offered PBV assistance in another project as the next alternative. If your PHA only has one PBV project, this option should be eliminated from the plan.
- The final type of assistance that will be offered according to the model plan language is tenant-based voucher assistance.
- If a PHA has public housing units or other programs that could provide comparable units, these can be added to the list. In addition, the order in which the different types of housing assistance are offered can be changed to reflect local desires and circumstances.

Instructions for Preparing Chapter 17: Project-Based Vouchers

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

PBV assistance in the same building or project;

PBV assistance in another project; and

Tenant-based voucher assistance.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*



Decision Point: If the PHA offers a family another form of assistance that is not a tenant-based voucher, how long will the family have to move out of the unit before their housing assistance payments will be terminated? (Model plan, p. 17-49)

Things to Consider

- The regulations state that a PHA must determine a “reasonable period” in which a family must move out of a PBV unit once they have been offered an alternative form of assistance (other than a tenant-based voucher).
- When determining a “reasonable period,” the PHA should try to strike a balance between the family's interest, the owner's interests, and the PHA's interest.
- Thirty (30) days is a reasonable amount of time for a family to be able to pack-up their unit and move to a new unit that the PHA has offered.
- The PHA should consider that during this “reasonable period,” the unit the family is moving to will need to be held vacant. In addition, during this period the admission of an applicant family that qualifies for the unit that the family is currently living will also be delayed.
- The model plan language does allow the PHA to extend the 30-day period if it is necessary due to circumstances beyond the family's control. Although examples of circumstances are given, the policy does not provide an exhaustive list.

Instructions for Preparing Chapter 17: Project-Based Vouchers

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

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

- Option 2: Delete model plan language. Fill in the blanks and substitute language shown below.*

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given ___ 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 ___ day time frame, the PHA will terminate the housing assistance payments at the expiration of this ___-day period.

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

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Family Right to Move [24 CFR 983.261]

This section describes the family's right to move after the initial term of the lease, and the circumstances under which a family qualifies for continued tenant-based assistance. **No policy decisions are required.**

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Emergency Transfers under VAWA [Notice PIH 2017-08]

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



Decision Point: What type of assistance will the PHA offer victims of domestic violence, dating violence, sexual assault, or stalking who have been living in their PBV unit for less than one year or who have been living in their unit for a year or more but for whom a voucher is not immediately available? (Model plan, p. 17-51)

Things to Consider

- If the family terminates the lease in accordance with PHA requirements at any time after the first year of occupancy, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance [24 CFR 983.261]. If a voucher is not immediately available, the PHA must give the family the next available opportunity for continued tenant-based assistance.
- If the family has lived in the unit for less than a year, the PHA is not required to provide the family with any form of continued assistance.
- Notice PIH 2017-08 requires that the PHA include policies that address when a victim of domestic violence, dating violence, sexual assault, or stalking requests to move after less than a year. The model policy states that the PHA will first offer the participant an internal transfer to another PBV unit in the same or different development. This is because a transfer within the program can be made quickly and without redetermining program eligibility.
- If an internal transfer is not feasible, the model policy offers the option for an external transfer to either the PHA's tenant-based HCV program or the PHA's public housing program. If the PHA does not have a public housing program, the model language will need to be edited. Further, the model policy also assumes that the PHA's public housing program has a preference for victims of domestic violence, dating violence, sexual assault, or stalking. If it does not, the model policy will need to be edited.
- While the PHA cannot waive the requirement that the participant live in the unit for a year, the PHA may place the participant on the HCV waiting list and expedite the process for receiving a tenant-based voucher by offering a waiting list preference for such individuals. Notice PIH 2017-08 requires the PHA to select PBV residents from the HCV tenant-based waiting list in this situation only. Once again, the model policy assumes the PHA has adopted such a preference (See Section 4-III.C.). If your PHA did not adopt such a preference, the language in the model policy will need to be edited.

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- Further, the PHA must address situations in which victims who are eligible to receive a tenant-based voucher are unable to receive one because a voucher is not immediately available. The model policy states that the PHA will first offer the participant an internal transfer to another PBV unit in the same or different development. This is because a transfer within the program can be made quickly and without redetermining program eligibility.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

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

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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



Decision Point: Will the PHA offer PBV assistance in “excepted units,” and if so, how long will the family have to move out of the unit before their housing assistance payments will be terminated if they no longer meet the criteria for a “qualifying family” or do not comply with their FSS contract? (Model plan, p. 17-52)

Things to Consider

- The PHA has the option under the regulations to allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members’ control.
- The regulations state that a PHA must determine a “reasonable period” in which a family must move out of a PBV unit when they no longer meet the definition of “qualifying family” (with the exception of families who meet the above mentioned exception, should the PHA choose to adopt this policy).
- Under Option 1, the PHA will grant an exception for families who initially qualified to live in the excepted unit but no longer qualify because of a change in circumstances beyond the family’s control. For all other families, the PHA will give families 30 days to move out of a PBV unit because they no longer qualify to reside in an “excepted unit.” This is the same time period offered to families that are required to move to another assisted unit (because they occupy the wrong size unit or an accessible unit that they do not need) under Section 17-VII.C. Offering all families that are required to move the same amount of time to do so provides consistency and promotes fairness in the treatment of tenants.
- The language under Option 1 also allows the PHA to extend the 30-day period if it is necessary due to circumstances beyond the family’s control. Although examples of circumstances are given, the policy does not provide an exhaustive list.
- If you adopt a different time period in Section 17-VII.C (for families required to move to another assisted unit), you may wish to use that same time frame in this policy.
- You should also review your policy in Section 17-II.F to ensure that it is consistent with what you decide here.
- Option 2 is the same as Option 1, with a blank space to fill in the amount of time given to families before they must move out of a PBV unit because they no longer qualify to reside in an "excepted unit."
- Option 3 states that the PHA will not offer PBV assistance in excepted units.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

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

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

- Option 2: Delete model plan language. Fill in the blanks and substitute language shown below.*

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

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

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

- Option 3: Delete model plan language. Substitute language shown below.*

The PHA will not provide PBV assistance for excepted units.

- Option 4: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

This section provides an overview of Part VIII. **No policy decisions are required.**

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

This section describes the limits on the rent to owner in PBV units. **No policy decisions are required.**

Certain Tax Credit Units [24 CFR 983.301(c), FR Notice 11/24/08]

Certain tax credit units are subject to different rent limits than other PBV units. This section describes which tax credit units are subject to the different rent limits, explains what those rent limits are, and provides relevant definitions. **No policy decisions are required.**

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



Decision Point: Under what circumstances will the PHA establish a rent floor within the HAP contract? (Model plan, p. 17-56)

Things to Consider

- The PHA is in the best position to determine whether a rent floor is needed based on the individual market and other local considerations.
- A rent floor would protect owners from rent decreases below the initial level established in the HAP contract. The rent floor was intended to make the PBV program easier to use in conjunction with other affordable housing finance programs, especially low-income housing tax credits.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the PHA will use the higher initial rent to owner amount.



Option 2: Delete model plan language. Fill in the blanks and substitute language shown below.

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

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



Decision Point: Under what circumstances will the PHA use the FMRs or utility allowances in effect within the 30 days immediately before the beginning of the HAP contract or the redetermination of rent? (Model plan, p. 17-57)

Things to Consider

- Typically, the PHA must use the published FMR and utility allowance schedule in effect at the time the HAP contract is executed or at the time of rent redetermination.
- However, the PHA is given the discretion to use the FMR and utility allowance schedule in effect 30 days prior to HAP contract execution or rent redetermination.
- Determining which FMR and utility allowance schedule will be used to calculate rent to owner at the time of HAP execution may be used as a point of negotiation with an owner.
- The model plan language states that if an owner wants the PHA to use the FMR and utility allowance in effect 30 days prior to execution of the HAP or the redetermination of rent, the owner must request it and provide reasoning and supporting documentation for the request. For example, if the FMRs decreased immediately prior to HAP execution or redetermination of rent, and the owner can document that current market conditions for units of the size and type receiving PBV assistance warrant the previous (higher) FMR, the PHA may consider this information.
- There may also be times when the PHA determines a need to use the FMR or utility allowance schedule in effect 30 days prior to HAP contract execution or the redetermination of rent due to financial constraints. This circumstance is also considered in the model plan language.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs in certain cases.



Decision Point: Will the PHA use SAFMRs for PBV projects? (Model plan, p. 17-57)

Things to Consider

- SAFMRs are published only for certain metropolitan areas. If your PHA is not located within such an area, select Option 1.
- Further, unlike in the tenant-based program, many PHAs implement PBV programs in order to revitalize and preserve housing in low-income neighborhoods. In this case applying SAFMRs may not be desirable since they are typically lower than the FMR for that area. For this reason, Option 1 states that the PHA will not apply SAFMRs to their PBV program.
- Further, applying SAFMRs to existing projects or those in the pipeline may destabilize deals, as it may affect their value for a future allocation of low-income housing tax credits.
- However, applying SAFMRs may assist the PHA with the goal of placing PBV units in high opportunity areas and reduce incentives to develop units in high-poverty areas.
- SAFMRs may not be high enough to achieve the PHA's goal of creating units in high opportunity areas.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will not apply SAFMRs to the PHA's PBV program.



Option 2: Delete the model plan language. Substitute language shown below.

The PHA will use SAFMRs for all projects selected after the effective date of both the PHA's SAFMR implementation and the effective date of this policy. SAFMRs will apply to all future PBV projects and to the PHA's entire jurisdiction. Should the PHA later change this policy, the SAFMRs will continue to be applied these projects.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Redetermination of Rent [24 CFR 983.302]

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

Rent Increase



Decision Point: When must an owner's request for an increase in the rent to owner (at the annual anniversary date of the HAP contract) be submitted to the PHA? (Model plan, p. 17-58)

Things to Consider

- The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by written notice to the PHA.
- In the voucher program, the landlord is required to give the PHA at least sixty days notice before a new rent is scheduled to go into effect. The model plan language adopts this same time frame for the PBV program.
- Requiring the owner to provide 60 days notice gives the PHA 30 days to determine if the rent is reasonable and can be approved, while still leaving enough time to provide the owner with 30 days notice of the new approved rent amount.
- Because the rent to owner in the PBV program is not subject to an annual adjustment factor (AAF) as other project-based assistance may be, the model plan language makes it clear that the owner must identify in his request the actual rent amount he is seeking.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Rent Decrease

This section clarifies that the PHA may decrease the rent to owner based on program requirements, regardless of whether the owner requested a rent adjustment. **No policy decisions are required.**

Notice of Rent Change

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



Decision Point: How and when will the PHA notify the owner of any change in the rent to owner? (Model plan, p. 17-58)

Things to Consider

- The PHA should provide a reasonable amount of notice to the owner regarding any change in the rent, to allow the owner time to plan his own budget based on the approved amount.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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

Any rent changes for PHA-owned units must be determined by the independent entity approved by HUD. **No policy decisions are required.**

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

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

When Rent Reasonableness Determinations Are Required

This section describes the circumstances under which the rent to an owner of a PBV unit must be redetermined as reasonable. **No policy decisions are required.**

How to Determine Reasonable Rent

This section explains how the PHA should determine whether or not a rent is reasonable. **No policy decisions are required.**

Comparability Analysis

This section describes the analysis the PHA must complete and the records that must be kept to document that the PHA has determined that a PBV rent is reasonable. **No policy decisions are required.**

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. **No policy decisions are required.**

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. **No policy decisions are required.**

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

Other Subsidy [24 CFR 983.304]

This section describes how the rent to owner may be affected by other subsidy the PBV unit is receiving. **No policy decisions are required.**

Rent Control [24 CFR 983.305]

This section explains that rent to owner may be affected by rent control laws. **No policy decisions are required.**

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PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

This section describes under what conditions the PHA will make housing assistance payments to the owner. **No policy decisions are required.**

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]



Decision Point: If the PHA determines that the owner is responsible for a vacancy and therefore may not keep the housing assistance payment for the month in which the family moved out, how will the PHA recover the amount owed from the owner? (Model plan, p. 17-61)

Things to Consider

- The PHA has already established policies regarding amounts owed to the PHA by a landlord for the tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion for owners and staff



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 17: Project-Based Vouchers



Decision Point: If an owner's HAP contract calls for vacancy payments to be made, what must the owner do in order to receive vacancy payments? (Model plan, p. 17-62)

Things to Consider

- Because it is possible that not all HAP contracts will call for vacancy payments to be made, the model plan language clarifies that this policy is conditional.
- To qualify for vacancy payments the owner must notify the PHA of any vacancy in accordance with the policy in Section 17-VI.F (5 business days).
- Although the notification of the vacancy must be submitted within 5 business days, the actual request for vacancy payments will be submitted later (following the vacancy period for which the owner is seeking reimbursement).
- The request for the vacancy payment must be made within 10 business days of the end of the period for which the owner is seeking reimbursement. In addition, the owner has 10 business days to provide any additional documentation requested by the PHA, to support the owner's request (10 business days is the standard timeframe used throughout much of the plan).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business 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 PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

Tenant and PHA Responsibilities

Utility Reimbursements

- Decision Point: To whom will the PHA make utility reimbursement payments? (Model plan, p. 17-63)**

Things to Consider

- In Section 6-III.A., the model plan states that the PHA will make utility reimbursement payments to the family rather than the utility company.
- For administrative ease, whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and participants.
- If in Section 6-III.A., you have adopted a policy that utility reimbursement payments will be made to the utility supplier, you may wish to adopt that same policy here. Again, this keeps the policies between the two programs as consistent as possible.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will make utility reimbursements to the family.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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

Meals and Supportive Services

This section describes when an owner is able to charge a family living in a PBV unit for meals and supportive services. **No policy decisions are required.**

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants. **No policy decisions are required.**

Instructions for Preparing Chapter 17: Project-Based Vouchers

FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan. Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
(2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
 Yes. Edits only. Edit and insert PHA language as appropriate.
 Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
 Yes. Changes to the following chapters are also required:

Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

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

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

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

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

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

Part VI: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

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

**Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV)
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Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

PART I: GENERAL REQUIREMENTS

18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

This section gives a brief description of the Rental Assistance Demonstration (RAD) program. **No policy decisions are required.**

18-I.B. APPLICABLE REGULATIONS

This section discusses notices and guidance that pertain to the project-based voucher program under RAD. ~~No policy decisions are required.~~



Decision Point: Which RAD notice(s) governs the PHA's RAD PBV projects? (Model plan, p. 18-4)

Things to Consider

- The RAD PBV policies in Chapter 18 are based on Notice PIH 2019-23. Depending on the closing date of the project, one or more of the PHA's projects may instead, however, be governed by the requirements of either Notice PIH 2012-32, REV-2 or Notice PIH 2012-32, REV-3. Because of this, policies will differ slightly in certain sections for these projects.
- The decision point below will allow the PHA to more easily identify projects that are governed by Notice PIH 2012-32, REV-2 or REV-3.
- If the PHA has projects governed by either Notice PIH 2012-32, REV-2 or REV-3, not only should the PHA identify all of its RAD PBV projects below, but in applicable sections of this Instruction Guide, the PHA should adopt policies in accordance with the notice in effect for those developments.
- In order to fill out the table in the policy section below:
 - For projects that closed on or after September 5, 2019, enter "PIH 2019-23" under RAD Notice below.
 - If the PHA was seeking conversion, including having a CHAP issued, or closed a project between January 12, 2017, and September 4, 2019, enter "PIH 2012-32, REV-3" under RAD Notice below.
 - If the PHA was seeking conversion, including having a CHAP issued, or closed a project prior to January 12, 2017, enter "PIH 2012-32, REV-2" under RAD Notice below.

**Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV)
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CAUTION: You must insert information here. The model administrative plan does not contain language that can be adopted as-is.

Option 1: Use the model plan language shown below. Insert a list of each RAD projects receiving PBV assistance, the closing date, and the applicable RAD notice to the project.

| <u>Project</u> | <u>Closing Date</u> | <u>RAD Notice</u> |
|----------------|---------------------|-------------------|
| | | |
| | | |

Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

*****Current Admin language reflected below for the purpose of this form. No changes to the Admin. needed.*****

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the part of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2012-32, REV-2. Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and section 8(o)(13) of the Act, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, approved January 17, 2014) and the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, approved December 6, 2014), collectively, the “RAD Statute.” Requirements specific to the RAD program may be found in:

- PIH-2012-32 (HA), REV-2, RAD- Final Implementation, Revision 2
- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component
- RAD FAQs (<http://www.radresource.net/search.cfm>)

Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD provided they do not conflict with RAD requirements.

18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]



Decision Point: Which of the PHA's tenant-based voucher policies will also apply to the RAD PBV program? (Model plan, p. 18-56)

Things to Consider

- Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance.
- This chapter of the administrative plan closely follows the PBV program regulations. As a result, there are topics explicitly discussed in this chapter even though the RAD PBV rules and resulting policies are the same as those for the tenant-based voucher program (e.g., abatement of HAP, denial of admission, utility reimbursements).
- On the other hand, there are many topics that are not covered in this chapter because they are not explicitly mentioned under RAD PBV regulations, notices, or guidance; yet it must be made clear what policies the PHA will follow for the RAD PBV program (e.g., processing reexaminations, fair housing, program integrity).
- This policy is intended to minimize the duplication of policies that are the same for the tenant-based voucher and RAD PBV programs, and make clear to PHA staff, owners, and participants that unless prohibited by program regulations or otherwise stated in this chapter, the PHA policies related to tenant-based vouchers also apply to RAD PBV assistance.

Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

See Exhibit 18-1 for information on projects to which the PHA has attached [RAD](#) PBV assistance.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

18-I.D. RELOCATION REQUIREMENTS ~~[Notice PIH 2016-17]~~

~~This section describes the relocation requirements for projects that have applied for conversion of assistance under the first component of RAD after and prior to November 10, 2016.~~

~~CAUTION: On November 10, 2016 HUD issued Notice PIH 2016-17 in order to update fair housing and relocation requirements under RAD. This notice superseded the former relocation notice, Notice PIH 2014-17. As such, the language included in the model policy has been updated to reflect the newest relocation notice, PIH 2016-17. Projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted as of November 10, 2016 should use the language found in the model administrative plan. No policy decisions are required.~~

~~However, if your project applied for conversion prior to November 10, 2016, then Notice PIH 2014-17 applies, and you should delete the language in this section of the model policy and replace it with the following language: No policy decisions are required.~~

~~In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.~~

~~Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2-5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.~~

~~In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.~~

~~Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.~~

18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH ~~2012-32, REV-32016-17~~]

This section describes the PHA's obligation to comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. **No policy decisions are required.**

Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

PART II: PBV PROJECT SELECTION

18-II. A. OVERVIEW

This section provides an overview of Part II. **No policy decisions are required.**

18-II.B. OWNERSHIP AND CONTROL [Notice PIH ~~2012-32~~, REV-32019-23]

~~On January 12, 2017, HUD issued Notice PIH 2012-32, REV-3 in order to provide revised program instructions on certain components of the RAD program. REV-3 of the Notice is applicable to projects converting assistance through RAD, including those where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. As such, t~~This section discusses ownership and control of RAD PBV developments. **No policy decisions are required.**

~~However, if your project converted assistance prior to the implementation of REV-3 of the Notice, you should delete the language in the model policy and replace it with the following:~~

~~During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:~~

- ~~• A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or~~
- ~~• A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.~~

18-II.C. PHA-OWNED UNITS [24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

If the project is PHA-owned pursuant to 24 CFR 983.59 (even though the project may be owned by a separate legal entity, if that entity is under the control of the PHA that is the voucher agency, the project may be deemed to be owned by the PHA), an independent entity will need to perform the rent-setting and inspection functions set forth in 24 CFR 983.59. **No policy decisions are required.**



Decision Point: Are units that are converted to PBV under RAD PHA-owned? (Model plan, p. 18-13)

Things to Consider

- In order to be a PHA-owned unit, the PHA must have ownership interest in the building itself, not simply the land beneath the building.
- A unit is considered to be *owned by the PHA* if the unit is in a project that is owned by the PHA (which includes a PHA having “controlling interest” in the entity that owns the unit), owned by an entity wholly controlled by the PHA, or owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing or general partner.

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- Controlling interest means:
 - Holding more than 50 percent of the stock of any corporation;
 - Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation);
 - Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;
 - Holding more than 50 percent of all managing member interests in an LLC;
 - Holding more than 50 percent of all general partner interests in a partnership; or
 - Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category, a PHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered PHA-owned.
- A unit is not considered to be owned by the PHA if:
 - The PHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself;
 - The PHA holds only security interest under a mortgage or deed of trust on the unit; or
 - The PHA has only a noncontrolling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit.
- HUD requires an independent agency to determine rent to owner, redetermined rent to owner, and rent reasonableness, in addition to conducting housing quality inspections to avoid any appearance of impropriety.
- Attachment B of Notice PIH 2017-21 provides detailed information on PHA selection of an independent entity.
- Please note that the model plan language calls for the PHA to identify the name of the independent entity. If units converted under RAD are not PHA-owned units, select Option 2.

**Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV)
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CAUTION: You must insert information here. The model plan does not contain language that can be adopted as-is

Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated the reflect the following language. Change to the Admin needed.*****

If units converted to PBV under RAD are PHA-owned housing, the PHA will use AHA, LLC as the HUD-approved independent entity.

The Auburn Housing Authority Housing Choice Voucher Program will manage the vouchers and AHA, LLC will act as the landlord and manage the units owed by Auburn Housing Authority.

Option 2: If units converted under RAD are not PHA-owned housing, delete the model plan language and insert the policy below.

The units converted to PBV under RAD are not owned by the PHA.

Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH ~~2012-32, REV-3~~2019-23; Notice PIH ~~2012-32, REV-3~~; Notice PIH ~~2012-32, REV-2~~]

CAUTION: The section identifies the subsidy layering requirements. The language in this section is applicable to projects that are governed by the requirements of Notice 2019-23 and Notice PIH ~~2012-32, REV-3~~. No policy decisions are required.

If your project falls under the requirements of REV-2, delete the language in this section and replace with the following:

~~In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds~~

Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV) under the Rental Assistance Demonstration (RAD) Program

~~or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.~~

18-II.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2012-32, REV-32019-23]

~~Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6. **No policy decisions are required.**~~

~~This section discusses the percentage limitations on PBV assistance as well as the project cap in the PBV program. RAD PBV units do not count toward the PHA's authorized unit cap that applies to the standard PBV program. Further, when HUD published **CAUTION:** Under REV-3 of Notice PIH 2012-32 in June 2015, they HUD eliminated the cap on the number of assisted units in each project. However, under REV-2 of the Notice, the cap on the number of PBV units in the project was 50 percent. Project owners were allowed to project based 100 percent of the units in a project, however, provided the units met certain exceptions criteria. As such, the model policy no longer contains language on excepted units. If your project is governed by the requirements of Notice PIH 2012-32, REV-2, the following language and policies must be added after the existing text in this section in the plan (decision points follow):~~

~~50 Percent per Project Cap [PIH 2012-32(HA), REV-2]~~

~~In general, the PHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. **No policy decisions are required.**~~

~~However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project remains 50 percent. In these projects, the PHA may maintain a 50 percent cap or, provided units met certain exceptions criteria, may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.~~

**Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV)
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Decision Point: For projects governed by Notice PIH 2012-32, REV-2, will the PHA provide PBV assistance in excepted units? (Model plan, p. 18-16)

Things to Consider

- If the PHA decided not to include excepted units in any project, select Option 1. If this option is selected, no further policy decisions are required.
- If the PHA decided to include excepted units, select Option 2 and identify the RAD PBV projects in which excepted units are included. If you select Option 2, further policy decisions are required. The decision point for the type of excepted units directly follows this one.



Option 1: If you do not wish to exceed the 50 percent cap, use the language below. No changes to the model policy are needed.

For projects governed by Notice PIH 2012-32, REV-2, the PHA will not provide RAD PBV assistance for any excepted units.



Option 2: If you want to exceed the 50 percent cap and include excepted units in the project, delete the model plan language and insert the language as shown below.

The PHA will provide for excepted units in the following RAD PBV developments:

[Insert names of projects/buildings with excepted units]



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: What type of excepted units will the PHA provide?

Things to Consider

- Under PIH 2012-32, REV-2, fFamilies living in units subject to a proposed RAD conversion must be given the option to receive supportive services. If such services are declined by the household, the unit is to remain under the HAP contract, the household must not be terminated from the PBV program, and the decision to decline an offer to receive supportive services does not represent grounds for lease termination.
- Once the initial household residing in the excepted unit vacates such unit, all PBV program requirements related to the required receipt of supportive services apply. To implement these provisions, HUD is waiving section 8(o) (13) (D) of the Act, as well as related provisions of 24 CFR 983.56, 983.257(c), 983.261(a) and (d) for initial occupancy in the RAD converted project.
- ~~Elderly and disabled families may live in excepted units without any requirement for them to receive supportive services. In fact, the PHA may not require participation in medical or disability related services other than drug and alcohol treatment in the case of current abusers, as a condition of living in excepted units (although services may be offered).~~
- Under the Housing Opportunity Through Modernization Act (HOTMA), the definition of *excepted unit* differs depending on when the HAP contract was executed.
 - Contracts executed prior to April 18, 2017, follow the “old” statutory PBV requirements for excepted units.
 - Projects where the HAP contract was executed on or after April 18, 2017, follow the new requirements that were implemented as a result of the HOTMA.
- Since projects that are governed by REV-2 of Notice PIH 2012-32 all fall under the pre-HOTMA requirements, the PHA and owner continue to operate under the “old” statutory requirements, which stated that the project cap does not apply to units for:
 - Elderly and/or disabled families
 - Families receiving supportive services (the family must have at least one member receiving at least one qualifying supportive service)
- However, under HOTMA, in projects governed by the “old” statutory requirements, the PHA and owner may agree to conform to the new HOTMA requirements as long as this change would not jeopardize assisted families’ eligibility for continued assistance in the project [Notice PIH 2017-21].

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- Under HOTMA, the project cap does not apply to units when:
 - The units are exclusively for elderly families
 - The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
 - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].
- If the PHA wishes to adopt post-HOTMA requirements for excepted units, the language in the model policy below will need to be amended. See the standard PBV chapter in Section 17-II.F. for sample language.
- If the PHA offers excepted units with supportive services, wWith the exception of in-place tenants at the time of conversion who may decline services, the PHA may require that in order for other families to reside in excepted units, they must be receiving supportive services. These services must be identified in the administrative plan.
- The PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers, as a condition of living in excepted units (although services may be offered).
- In determining whether or not to allow families to reside in excepted units, the PHA should consider the type and nature of housing that will be provided, the needs of the intended recipients, the ability of owners to provide required supportive services on-site or otherwise, or the availability of supportive service providers in the community that could be easily accessible to a project.
- The options that follow run the gamut of situations that may be appropriate to various PHAs, including not requiring families to receive supportive services (Option 1), offering services to ~~all families (Option 2), offering services for the FSS program (Option 3) or~~ disabled families (Option ~~2~~4) only, or all families in need of services (Option 3), ~~or not providing assistance for excepted units at all (Option 5).~~
- Note that should your PHA choose to offer mandatory supportive services, you must state how you will monitor families' receipt of such services. The decision point for monitoring receipt of services follows this one, ~~starting on page 18-9 of this instruction guide.~~

**Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV)
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- Option 1: If you want to exceed the 50 percent cap, but do not wish to require families to receive supportive services, insert the model plan language as shown below.*

*****Current Admin language reflected below for the purpose of this form. No changes to the Admin needed.*****

No changes to the model plan are needed.

The PHA does require families living in excepted units to receive supportive services.

- ~~*Option 2: If you do not wish to exceed the 50 percent cap and do not wish to have excepted units, delete model plan language and substitute language as shown below.*~~

~~The PHA will not provide RAD PBV assistance for any excepted units.~~

- ~~*Option 3: To offer services only to FSS families, delete model plan language and substitute language as shown below.*~~

~~The PHA will develop housing for occupancy by families participating in the Family Self-Sufficiency (FSS) program who are in need of services to complete the family's FSS contract of participation. With the exception of in-place families at the time of conversion who decline services, families must receive the services, and successfully complete the service program, to be eligible for continued occupancy. Families that do not continue to receive the services or complete the required service program will be terminated in accordance with the PHA policies in Section 12-II.F.~~

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

~~Transportation for activities such as grocery shopping, attending medical and dental appointments;~~

~~Supervised taking of medications;~~

~~Treatment for drug rehabilitation in the case of current abusers;~~

~~Treatment for alcohol addiction in the case of current abusers;~~

~~Training in housekeeping and homemaking activities;~~

~~Family budgeting;~~

~~Child care;~~

~~Parenting skills;~~

~~Computer labs; and~~

~~Work skills development and job training.~~

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- Option 42: To offer services only to disabled families, ~~delete model plan language and substitute~~ insert the model plan language as shown below.*

The PHA will develop housing for occupancy by disabled families in need of services. With the exception of in-place families at the time of conversion who decline services, families must receive the services, and successfully complete the service program, to be eligible for continued occupancy. Families that do not continue to receive the services or complete the required service program will be terminated in accordance with the PHA policies in Section 12-II.F.

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

Transportation for activities such as grocery shopping, attending medical and dental appointments;

Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Training in housekeeping and homemaking activities;

Family budgeting;

Child-care;

Parenting skills;

Computer labs; and

Work skills development and job training.

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- Option 35: To offer services to disabled families, other families in need of supportive services, or families participating in the FSS program, ~~delete model plan language and substitute~~ insert the model plan language as shown below.*

The PHA will develop housing for occupancy by families in need of services. This may include disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) program. With the exception of in-place families at the time of conversion who decline services, families must receive the services, or successfully complete the service program, to be eligible for continued occupancy. With the exception of families on FSS, fFamilies that do not continue to receive the services or complete the required service program will be terminated in accordance with the PHA policies in Section 12-II.F. The following types of services will be provided depending on the needs of the family:

Transportation for activities such as grocery shopping, attending medical and dental appointments;

Supervised taking of medications;

Treatment for drug rehabilitation in the case of current abusers;

Treatment for alcohol addiction in the case of current abusers;

Training in housekeeping and homemaking activities;

Family budgeting;

Child-care;

Parenting skills;

Computer labs; and

Work skills development and job training.

- Option 46: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: How will the PHA monitor that families are receiving services or that families have successfully completed their service program? If your PHA will not provide excepted units for supportive services, ~~delete~~ do not include this section.

Things to Consider

- If the PHA does not offer assistance in excepted units, do not include this section.
- Under ~~RAD~~ Notice PIH 2012-32, REV-2, the requirement that a family must actually receive services to reside in a unit where families receive supportive services differs from the standard PBV program. Families living in units that will convert under RAD must be given the option to receive supportive services. If such services are declined by the household, the unit will remain under the HAP contract, the household will not be terminated from the PBV program, and the decision to decline an offer to receive supportive services will not represent a ground for lease termination.
- Once the initial household residing in the excepted unit under RAD vacates such unit, all pre-HOTMA PBV program requirements related to the required receipt of supportive services ~~will~~ may apply. For those families, if a family is living in a project-based unit that is excepted from the 50 percent per project cap on project-basing because of participation in a supportive services program (~~e.g., Family Self-Sufficiency~~), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.
- The PHA must monitor an excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement (with the exception of FSS).
- The PHA administrative plan must state the form and frequency of such monitoring.
- In determining the form and frequency of the monitoring, the PHA should consider whether the PHA has the staff capacity to monitor the receipt of services by participating families.
- In addition, the PHA may want to consider whether the service providers or owner (in the case of owner-provided services) are willing to submit a monthly report to the PHA of the families that are receiving services. If the owner has reporting obligations, these should be stated in the HAP contract.
- ~~If the PHA is only providing services in PBV units in connection with the PHA FSS program, the PHA may utilize its system for monitoring the receipt of services by FSS participants.~~
- Monitoring on a monthly basis simplifies the verification process, as opposed to a quarterly basis where three months worth of verification and documentation would have to be verified and checked. However, if the PHA has a very small number of families receiving services, quarterly verification may be appropriate.

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- ~~• If your PHA has selected the default policy to not require families living in excepted units to receive supportive services, select Option 1. You will not need to make any modification to your model plan.~~
- If your PHA will monitor on a monthly basis, select Option 12. To monitor on a quarterly basis, select Option 23.
- ~~• If your PHA is only providing services in PBV units in connection with the FSS program and would like to use its FSS system for monitoring, select Option 4.~~

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- Option 1: ~~Delete~~ Use the model plan language and substitute language as shown below.*

On a monthly basis, the PHA will monitor all families that are receiving services to determine if such families will be allowed to continue receiving PBV assistance. The PHA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternatively, each service provider will submit a report to the PHA identifying the services received by each family, and the PHA will check to see if all services required in the statement of family obligation or FSS contract of participation were received.

- Option 2: ~~Delete model plan language and substitute~~ Use the model plan language as shown below.*

On a quarterly basis, the PHA will monitor all families that are receiving services to determine if such families will be allowed to continue receiving PBV assistance. The PHA will require families receiving services to provide written evidence from each service provider that the family has received all of the required services stated in the statement of family obligations or FSS contract of family participation. Alternatively, each service provider will submit a report to the PHA identifying the services received by each family, and the PHA will check to see if all services required in the statement of family obligation or FSS contract of participation were received.

- ~~*Option 3: Delete model plan language and substitute language as shown below.*~~

~~The PHA is only providing services in PBV units in connection with the PHA FSS program and will utilize the same system used for monitoring the receipt of services by FSS participants.~~

- Option 34: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: If the PHA offers assistance in “excepted units,” how long will the family have to move out of the unit before their housing assistance payments will be terminated if they no longer meet the criteria for a “qualifying family” in connection with the 50 percent per project cap exception? If your PHA will not provide excepted units for supportive services, ~~delete~~ do not include this section.

Things to Consider

- If the PHA does not offer assistance in excepted units, do not include~~delete~~ this section.
- ~~Families living in units subject to a proposed RAD conversion~~In-place families at the time of conversion must be given the option to receive supportive services and may decline that option. If services are declined, the unit remains under HAP contract and the family may not be terminated from the program for this reason.
- For families that move in after the conversion, ~~t~~The PHA has the option under the pre-HOTMA regulations to allow families who initially qualified to live in an excepted unit to remain when circumstances change due to situations beyond the remaining family members’ control.
- The pre-HOTMA regulations state that a PHA must determine a “reasonable period” in which a family must move out of a PBV unit when they no longer meet the definition of “qualifying family” ~~(with the exception of families who meet the above mentioned exception, should the PHA choose to adopt this policy).~~
- Note that for families participating in FSS, failure to meet obligations under the FSS program is not an allowable termination of assistance as this is prohibited under the alternative requirements set forth in FR Notice 12/29/14.
- Under Option 1, the PHA will grant an exception for families who initially qualified to live in the excepted unit but no longer qualify because of a change in circumstances beyond the family’s control. For all other families, the PHA will give families 30 days to move out of a PBV unit because they no longer qualify to reside in an “excepted unit.” This is the same time period offered to families that are required to move to another assisted unit (because they occupy the wrong size unit or an accessible unit that they do not need). Offering all families that are required to move the same amount of time to do so provides consistency and promotes fairness in the treatment of tenants.
- The language under Option 1 also allows the PHA to extend the 30-day period if it is necessary due to circumstances beyond the family’s control. Although examples of circumstances are given, the policy does not provide an exhaustive list.
- If you adopt a different time period for families required to move to another assisted unit, you may wish to use that same time frame in this policy.
- ~~You should also review your policy in Section 18 H.E to ensure that it is consistent with what you decide here.~~

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- Option 2 is the same as Option 1, with a blank space to fill in the amount of time given to families before they must move out of a PBV unit because they no longer qualify to reside in an “excepted unit.”
- ~~Option 3 states that the PHA will not offer PBV assistance in excepted units.~~

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

This policy does not apply to in-place families at the time of conversion who decline the offer of supportive services or families who fail to meet their obligations under an FSS contract of participation. For all other families, tThe PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to situations beyond the remaining family members' control.

In all other cases, when the PHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 50 percent per project cap exception, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

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

~~The PHA 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 the PHA, the PHA will amend the HAP contract to reduce the total number of units under contract.~~

- Option 2: Delete the model plan language. Fill in the blanks and substitute the language shown below.*

This policy does not apply to in-place families at the time of conversion who decline the offer of supportive services or families who fail to meet their obligations under an FSS contract of participation. For all other families, tThe PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to situations beyond the remaining family members' control.

In all other cases, when the PHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 50 percent per project cap exception, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given ___ days from the date of the notice to move out of the PBV unit. If the family does not move out within this ___-day time frame, the PHA will terminate the housing assistance payments at the expiration of this ___-day period.

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

~~The PHA 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 the PHA, the PHA will amend the HAP contract to reduce the total number of units under contract.~~

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- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

**18-II.F. SITE SELECTION STANDARDS [Notice PIH ~~2012-32, REV-3~~2019-23;
Notice PIH 2016-17]**

This section describes the site and neighborhood standards for RAD PBV. **No policy decisions are required.**

**18-II.G. ENVIRONMENTAL REVIEW [Notice PIH ~~2012-32, REV-3~~2019-23;
Environmental Review Requirements for RAD Conversions, (March 2019)]**

The financing plan includes a requirement for an environmental review. **No policy decisions are required.**

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PART III: DWELLING UNITS

18-III.A. OVERVIEW

This section provides an overview for Part III. **No policy decisions are required.**

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

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

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program. **No policy decisions are required.**

Lead-based Paint [24 CFR 983.101(c); [Notice PIH 2019-23](#)]

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. **No policy decisions are required.**

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

[\[Notice PIH 2016-17\]](#)

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8. **No policy decisions are required.**

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18-III.D. INSPECTING UNITS

This section identifies special inspection requirements for the PBV program including initial, turnover, annual/biennial, and other inspections. In addition, it explains requirements related to the inspection of PHA-owned units.

Initial Inspection [RAD Quick Reference Guide; Notice PIH 2012-32, REV-32019-23]

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC). The PHA enters into the HAP contract when financing closes for the property. All units that are undergoing rehabilitation must meet HQS by dates set in the conversion commitment with HUD. No policy decisions are required.

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

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life threatening conditions. **No policy decisions are required.**

Decision Point: Will the PHA require turnover units to pass HQS inspection prior to approving tenancy? (Model plan, p. 18-14)

Things to Consider

- ~~HUD now allows PHAs to approve occupancy and the execution of a lease when a unit or units fail HQS as long as the conditions do not meet the definition of *life-threatening* found in Notice PIH 2017-20 and the PHA's administrative plan.~~
- ~~If the PHA chooses to adopt this policy, the administrative plan must specify the circumstances under which the PHA approve tenancy for a unit that fails the initial HQS inspection as a result of only non-life threatening conditions and the circumstances under which a PHA will require the unit meet all HQS standards before approving tenancy.~~
- ~~If the PHA adopts this policy, they must include HUD's definitions of *non-life-threatening conditions* and *life-threatening conditions* found in Notice PIH 2017-20, although additional conditions may also be identified PHA policy. If the PHA adopts this policy, Option 2 states that the PHA will use the same definition of *life-threatening* identified in Section 8 I.C., Life-Threatening Conditions.~~
- ~~Further, if the PHA adopts this policy, the PHA must withhold any HAP if the non-life threatening conditions are not remedied within 30 days of the PHA's written notice to the owner. For ease of administration, Option 2 states that the same process~~

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~~will be used for the project based and tenant based programs which is identified in Section 8 H.B., Initial HQS Inspection.~~

- ~~• This policy may be applied to all of the PHA's initial inspections or only to a portion.~~

~~Option 1: Use the model plan language shown below. No changes to the model plan are needed.~~

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

~~Option 2: Use PHA established policy. Edit the model plan language or delete it and insert the PHA's policy.~~

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

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS.



Decision Point: How often will the PHA inspect a random sample to determine if contract units and the premises are maintained in accordance with HQS? (Model plan, p. 18-1420)

Things to Consider

- The regulations now require that units must be inspected “at least biennially.” PHAs that choose to continue to inspect units annually must revise their policies since this is now a discretionary option.
- PHAs may employ both annual and biennial inspections as long as the criteria are fair and are applied uniformly.
- HUD discourages agencies from adopting biennial inspections for reasons unrelated to the owner's record of HQS compliance. For example, a policy based on the unit's distance from PHA facilities would not be acceptable.
- Because PHAs are only required to inspect a random sample of at least 20 percent of contract units, the default policy keeps inspections at the annual basis because the inspection burden is already less than it would be in the HCV program.
- On the other hand, if the PHA is conducting biennial inspections in the HCV program and the PHA wishes to mirror HCV inspection requirements, Option 2 would allow PHAs to conduct inspections biennially rather than annually.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

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

- Option 2: Delete model plan language and substitute language as shown below.*

*****Admin updated to reflect language below. Changes to the Admin needed.*****

The PHA will inspect once every 24 months a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]

[In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.](#)

- Decision Point: Will the PHA accept the results of inspections performed by HUD or conducted for other housing programs for the annual/biennial inspection? (Model plan, p. 18-20)**

Things to Consider

- [PHAs may rely on alternative inspection methods such as those performed by HUD or conducted for other housing programs such as the HOME or the low-income housing tax credit \(LIHTC\) programs for periodic inspections. If the PHA wishes to rely on alternative inspections, the PHA must identify the alternative inspection method in the administrative plan and may need to revise the annual plan. HUD approval is not required in this case.](#)
- [If the PHA wishes to rely on an inspection method other than those listed above, however, the PHA must notify and receive approval from REAC prior to amending the administrative plan and may need to revise the PHA annual plan as well.](#)
- [The standard must meet or exceed HQS. The PHA may only rely on the alternative method only if the property receives a “pass” score, even if deficiencies are noted.](#)
- [Further, the PHA has the option in a mixed finance property that is assisted under the PBV program and is also financed under a federal, state, and/or local housing program to rely on inspections conducted using alternative inspection methods that happen no less than triennially.](#)

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- If the PHA relies on alternative inspections, the PHA must obtain inspection reports and other data from the entity conducting the inspection within five business days of the inspection. If the alternative inspection method employs sampling, the results may be utilized only if HCV and PBV units are included in the base population of the sample. Reports must be available for HUD inspection for at least three years from the date of the latest inspection.
- Although most other housing programs follow UPCS, not HQS, relying on HQS inspections is allowed.
- If your PHA chooses to accept the results of LIHTC inspections, remember that LIHTC does not use a pass or fail system; all instances of noncompliance with UPCS are noted without regard to severity levels. PHA staff will have to evaluate whether instances of noncompliance noted as part of the inspection rise to the level of an HQS fail. If so, the PHA must promptly conduct an HQS inspection.
- HOME units are inspected using minimum property standards, which vary depending on the HOME activity. PHA staff who review inspection reports for HOME units will need to be familiar with their PJ inspection form and requirements. This methodology may or may not include a pass/fail system.
- Since HUD allows PHAs to accept triennial inspections of PBV units in mixed-finance developments, the PHA may wish to adopt a policy that alternative inspections will only be utilized in this specific case.
- If the alternative inspection method is used, the PHA must continue to submit 50058s to PIC in the same manner, which includes providing the date of the last inspection, and the date the unit last passed inspection.
- This policy only applies to periodic inspections (i.e., those the PHA conducts annually/biennially) and would not apply to turnover inspections.
- Since additional staff time will be required to determine whether units passed or failed inspection and it may be difficult for the PHA to obtain inspection reports from other entities, Option 1 states that the PHA will not rely on alternative inspection methods.
- If the PHA wishes to use alternative inspection methods, select Option 2.

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- Option 1: Use the model plan language shown below. No change to the model plan is needed.

*****Admin plan updated to reflect the below language. Change to the Admin needed.*****

The PHA will not rely on alternative inspection standards.

- Option 2: Replace the language in the model plan with the following:

The PHA will accept the results of inspections performed by HUD REAC, or for the HOME or LIHTC programs. Inspections will only be accepted if PBV and HCV units are included in the population of units forming the basis of the sample.

The PHA will not utilize inspection results other than from inspections conducted by HUD or for the HOME or LIHTC programs.

Inspection reports and other data must be provided to the PHA within **five** business days of the inspection. The PHA will review the inspection reports and determine whether the unit will receive a “pass” under HQS within **five** business days. If the PHA determines that the unit does not pass, the PHA will notify the owner and conduct an HQS inspect within 10 business days.

- Option 3: Use PHA-established policy. Edit the model language or delete it and insert the PHA’s policy.

Other Inspections [24 CFR 983.103(e)]

This subsection summarizes when other inspections are needed. **No policy decisions are required.**

Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]

In the case of PHA-owned units, the inspections must be performed by an independent agency entity designated by the PHA and approved by HUD. **No policy decisions are required.**

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PART IV: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

18-IV.A. OVERVIEW [[PBV Quick Reference Guide \(10/14\)](#)]

This section provides an overview of Part IV. No policy decisions are required.

18-IV.B. HAP CONTRACT REQUIREMENTS

Contract Information [[PBV Quick Reference Guide \(10/14\)](#)]

This section describes the information that must be included in a PBV HAP contract. **No policy decisions are required.**

Execution of the HAP Contract [[RADBlast! 7/11/16](#)]

When the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. **No policy decisions are required.**

Term of HAP Contract [[Notice PIH 2012-32, REV-32019-23](#)]

The initial term of the HAP contract may not be for less than 15 years, and may be for a term of up to 20 years. **No policy decisions are required.**

Agreement to Enter into a HAP (AHAP) Contract [[Notice PIH 2012-32, REV-32019-23](#)]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. **No policy decisions are required.**

Mandatory Contract Renewal [[Notice PIH 2012-32, REV-32019-23](#)]

By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. **No policy decisions are required.**

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

The PHA may not make any HAP payment to the owner for a contract unit during any period for which the unit does not comply with HQS.

- Decision Point: What policies will the PHA follow regarding abatement of HAP and HAP contract termination due to owner noncompliance with HQS? (Model plan, p. 18-18)**

Things to Consider

- The PHA has already developed policies regarding this issue for its tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion for owners and staff.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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18-IV.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH ~~2012-32~~, REV-32019-23]

~~Upon request of the owner to the voucher agency that will administer the project, in certain mixed-finance projects, the PHA may ask HUD permission to have will permit~~ assistance to float among unoccupied units within the project that are the same bedroom size.



Decision Point: Will the PHA ~~request permission from HUD to allow~~ assistance to float among unoccupied units within the project? (Model plan, p. 18-~~1925~~)

Things to Consider

- ~~This decision only applies to mixed-income projects where the PHA already allows subsidized units to float within the project which was redeveloped with funding under a Choice Neighborhoods Implementation or HOPE VI grant, or as part of a mixed-finance project.~~
- ~~The voucher agency must request permission from HUD to allow PBV assistance to float among unoccupied units within the project having the same bedroom size.~~ The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.
- For UFAS 504 accessible units, assistance may only float to another 504-UFAS accessible unit with the same bedroom size and features. If assistance floats to a UFAS accessible unit as a reasonable accommodation for a household that had not previously been in a UFAS unit, the assistance may float back to a non-UFAS unit where there is no longer a need for the reasonable accommodation provided the required number of UFAS units is maintained.
- If the PHA decides to float assistance, a tracking system will need to be implemented to ensure that units are comparable.
- Units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. Requirements in 24 CFR 983.203(c) that the HAP contract provide “the location of each contract unit” and “the area of each contract unit” are waived.
- Particularly in mixed finance developments layered with low-income housing tax credits, the PHA may wish to float assistance among units in order to allow the PHA to more easily meet requirements of the LIHTC program.
~~Since the property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward, tracking of floating units may become administratively burdensome. Therefore, the default policy states that the PHA will not float assistance.~~

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Current Admin language added below for the purpose of this form. No changes to Admin needed.*****

The PHA will determine whether to float assistance among unoccupied units within the project on a case-by-case basis, where appropriate.

- Option 2: Delete model plan language and substitute language as shown below.*

~~The PHA will not float assistance among unoccupied units within the project. The PHA will float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated will be maintained by each property.~~

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

Reduction in HAP Contract Units [Notice PIH ~~2012-32~~, REV-32019-23]

The PHA may not reduce the number of assisted units without written HUD approval. **No policy decisions are required.**

18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]

This section explains the term HAP contract year and describes how the HAP anniversary is determined. **No policy decisions are required.**

**18-IV.E. OWNER'S RESPONSIBILITIES UNDER THE HAP CONTRACT
[24 CFR 983.210]**

This section describes the items to which an owner certifies when the owner executes the HAP contract and at all times during the term of the HAP contract. **No policy decisions are required.**

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18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

- Decision Point: Will the HAP contract provide for vacancy payments to the owner, and if so, what amount will be paid and for what period? (Model plan, p. 18-20)**

Things to Consider

- The PHA is not required to offer vacancy payments.
- A vacancy payment may only be made for a maximum of two months and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).
- Within these regulatory limits, the PHA still has discretion. For example, the PHA could negotiate a maximum payment of 50 percent of the monthly rent to owner for a period of one month.
- The model language clarifies that if vacancy payments will be made, this information, including the amount of the payment and period for which the payments will be made, will be added to the HAP contract.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Current Admin language added below for the purpose of this form. No changes needed to the Admin plan.*****

The PHA shall make vacancy payments for units that are unoccupied for a period not exceeding two full months following the move-out month. Owners must request vacancy payments. Such payments will be made provided that the owner properly notifies the AHA of the vacancy and provided that the vacancy was not caused by any action of the owner.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18-V.A. OVERVIEW

This section provides an overview of Part V. No policy decisions are required.

18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH ~~2012-32, REV-3~~2019-23]

CAUTION: This section describes the requirement that in-place tenants at the time of conversion not be rescreened. ~~The language in this section is applicable to projects that are governed by the requirements of Notice PIH 2012-32, REV-3. No policy decisions are required.~~

~~If your project falls under the requirements of REV-2, delete the language in this section and replace with the following:~~

~~Current households are not subject to rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. For example, a unit with a household that was over income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.~~

~~Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.~~

~~For the RAD PBV program, *in place family* means a family who lived in a pre conversion property at the time assistance was converted from public housing to PBV under RAD.~~

18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for RAD PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program.



Decision Point: What policies will the PHA follow for determining the eligibility of applicants for PBV assistance? (Model plan, p. 18-~~2228~~)

Things to Consider

- The PHA has already developed policies for determining eligibility for the tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion.
- If Chapter 3 contains discretionary eligibility requirements for the tenant-based voucher program that you do not want to use for the PBV program, any exceptions or differences in the policies should be listed here (see Option 2).

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Delete model plan language and substitute language as shown below.

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3, with the following exceptions:

[Insert list of exceptions from Chapter 3]



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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**18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c);
Notice PIH ~~2012-32~~, REV-32019-23]**



Decision Point: Will the PHA establish a list for the PHA's entire RAD PBV or voucher program, or will separate lists be established for individual projects? (Model plan, p. 18-~~23~~29)

Things to Consider

- 24 CFR 983.251, which sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list, apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.
- The PHA must consider the best means to transition applicants from the current public housing waiting list.
- It is easier to manage and administer a PBV waiting list that is separate from the tenant-based voucher waiting list.
- Likewise, if a PHA has more than one development with RAD PBV assistance, it may be easier to manage a separate waiting list for each development, particularly if the PHA wants to provide preferences for occupancy of specific units.
- If a PHA has multiple PBV projects aimed at serving specific populations and will have services on site to serve these populations, establishing separate waiting lists for these projects may be necessary so that specific preferences for families needing these services can be provided for different projects or buildings.
- When transferring an existing site-based waiting list to a new site-based waiting list, if the PHA is transferring the assistance to another neighborhood, and as a result of the transfer of the waiting list the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the waiting list of the transfer of assistance, and on how they can apply for residency at other sites.
- If transitioning from site-based to community-wide lists, the PHA must consider how to inform applicants on the site-based waiting list how to apply for a PBV program-wide or HCV program-wide waiting list.
- If transitioning from public housing community-wide to other community-wide or site-based lists, the PHA must consider how to inform applicants on a public housing community-wide waiting list on how to apply for a voucher-wide, PBV program-wide, or site-based waiting list.

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- If transitioning from community-wide to a site-based waiting list, the PHA must establish a waiting list in accordance with 24 CFR 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the converted project's initial waiting list. Applicants on the agency's public housing community-wide waiting list who wish to be placed onto the newly-established site-based waiting list must be done so in accordance with the date and time of their original application to the centralized public housing waiting list.
- The model plan language requires you to insert information here based on your local circumstances.
- If you want to establish a community-wide RAD PBV waiting list rather than for each project or development, select Option 2.

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CAUTION: You must insert information here. The model administrative plan does not contain language that can be adopted as-is.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed other than to enter the list of projects receiving PBV assistance.*

*****Current Admin language listed below for the purpose of this form. No changes to the Admin needed.*****

The PHA will establish and manage one RAD PBV waiting lists. Currently, the PHA's RAD PBV waiting list is for the following RAD PBV projects:

- Ridgecrest
- Drake
- Porter (elderly designated)
- Moton
- Eastpark
- Sparkman

The PHA will maintain the waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv).. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement or complaint brought by HUD.

- Option 2: Delete model plan language and substitute language as shown below.*

The PHA will establish a community-wide waiting list for the PHA's entire RAD PBV program.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants will have priority on the waiting lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. **No policy decisions are required.**

Income Targeting [24 CFR 983.251(c)(6); Notice PIH ~~2012-32~~, REV-32019-23]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs. **No policy decisions are required.**

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

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner. **No policy decisions are required.**

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH ~~2012-32~~, REV-32019-23]



Decision Point: Will the PHA establish criteria or preferences for the occupancy of RAD PBV units? (Model plan, p. 18-~~2430~~)

Things to Consider

- If the converted project will serve a different population than the one served by the original project, the PHA must obtain written HUD approval.
- The PHA may use the same selection preferences that are used for the tenant-based voucher program, to establish selection criteria or preferences for the RAD PBV program as a whole, or for occupancy of particular RAD PBV developments or units.
- The preferences offered by a PHA (if any) will depend on the local housing needs, the type of housing that is receiving project-based assistance, whether services are being offered, and whether the housing is intended for particular populations (e.g., victims of domestic violence, homeless, disabled, elderly, etc.).
- The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that the preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability. In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.
- ~~The PHA may offer a preference for individuals who qualify for voluntary services offered in connection with units. The services may or may not include disability-specific services.~~

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- ~~• Even if the preference is adopted, participation in services is still voluntary. Program beneficiaries who receive housing because of the preference still have the ability to receive voluntary services from a service provider of their choosing, or not to participate in services at all. If the individual chooses to no longer participate or no longer qualify, they may not subsequently be denied continued housing opportunity.~~
- ~~• Preferences may not be given to persons with a specific disability.~~
- Examples of this type of preference may include a preference for persons who qualify for employment assistance or transportation services, or for a person who qualifies for housekeeping assistance, case management, or outpatient health services.

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- If the PHA adopts a disability-specific service, the PHA must consider how to implement the preference consistent with Section 504 and the Americans with Disabilities Act (ADA), and their implementing regulations. Regulations require that the PHA ensures that the person with disabilities can interact with persons without disabilities to the fullest extent possible in an integrated housing setting.
- Further, the Fair Housing Act and related regulations require a dispersion of units occupied by individuals with disabilities, and that the owner not assign individuals with disabilities to a particular section or floor of a building.
- Also, a PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require the individuals be transitioned to different projects based on service needs.
- Preferences may not be given to persons with a specific disability.
- ~~Although preferences can be offered based on the available services, residents with disabilities may not be required to accept the particular services offered at a project.~~
- Preferences make the waiting list management process more complex and difficult to administer. They may also make the selection process harder for families to understand.
- Selection preferences may prevent some families without preference from ever being selected for PBV assistance.
- Because preferences are specific to particular PHAs and dependent on local conditions and local PBV programs, the model plan does not include any preferences.
- HUD recommends that when using a site-based waiting list the PHA consider waiting list policies that expand opportunities for tenants seeking an emergency transfer under the PHA's Emergency Transfer Plan (ETP) under VAWA. As such, and to align this policy with the emergency transfer policy found in section 18-VI.E., Option 1 states that, while the PHA will not offer preferences, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another. If the PHA does not have site-based waiting lists, or if this policy is not adopted, the corresponding policy in Section 18-VI.E. will need to be revised to remove this language.
- If you have separate PBV waiting lists by project or development, and have preferences for these waiting lists, select Option 2.

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Current Admin language listed below for the purpose of this form. No
changed to the Admin needed. *****

For existing housing, any in-place tenant that qualifies will receive the preference for in-place residents at 24 CFR 983.251(b).

Other than the above, the PHA will apply the preferences used for tenant-based assistance (See 4-III.C. Selection Method).

For Porter, an elderly-designated development, families must be elderly families. If there are not enough elderly families seeking housing, the PHA will offer units to near-elderly families.

- Option 2: Delete model plan language and substitute language as shown below.*

The following preferences have been established for the PBV program:

[Insert list of preferences]

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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18-V.F. OFFER OF PBV ASSISTANCE

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

This section describes the actions the PHA is prohibited from taking against a family who has applied for, received, or refused an offer of PBV assistance. **No policy decisions are required.**

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

This section describes actions the PHA is prohibited from taking when a landlord disapproves a tenant for occupancy. **No policy decisions are required.**

Acceptance of Offer [24 CFR 983.252]

Family Briefing

This section describes the PHA's obligation to conduct an oral briefing and provide the family with a briefing packet for those families that have accepted a unit offer. **No policy decisions are required.**

Persons with Disabilities

This section describes the PHA's obligation to make sure information is provided in an accessible format to persons with disabilities and to have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit. **No policy decisions are required (see relevant policies in Chapter 2).**

Persons with Limited English Proficiency

This section describes the PHA's obligation to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. **No policy decisions are required (see relevant policies in Chapter 2).**

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18-V.G. OWNER SELECTION OF TENANTS [\[24 CFR 983.253\]](#)

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

Leasing [\[24 CFR 983.253\(a\)\]](#)

This section describes the requirements for who can lease contract units. **No policy decisions are required.**

Filling Vacancies [\[24 CFR 983.254\(a\)\]](#)

This section describes the owner's obligation to notify the PHA about vacancies in contract units, and the PHA's obligation to refer families to the owner to fill such vacancies.



Decision Point: How quickly must the owner notify the PHA of a vacancy or expected vacancy and in what format must the notice be given? (Model plan, p. 18-~~2632~~)

Things to Consider

- The regulation states that the owner must “promptly” notify the PHA of any expected vacancy or vacancy in a contract unit.
- To minimize vacancy days and avoid making vacancy payments (if applicable) for units that are unoccupied, it is important for the PHA to know about vacancies as soon as possible. This will allow the PHA to refer a sufficient number of families to the owner as quickly as possible.
- Although the standard of providing notice of 10 business days is used throughout much of the model plan, due to the time-sensitive nature of this information, the model plan gives the owner five business days to provide this information to the PHA.
- The model plan calls for the notice to be in writing (via mail, fax, or email). It is important for the PHA to have this information in writing, so that if a unit is vacant for 120 days or more from the owner notice of vacancy, the PHA can take action to reduce the number of contract units under the PBV HAP based on this written documentation.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: How quickly must the PHA refer a sufficient number of families for the owner to fill a vacancy? (Model plan, p. 18-~~2632~~)

Things to Consider

- The regulation states that the PHA must make every reasonable effort to refer “promptly” a sufficient number of families for the owner to fill vacancies.
- To minimize vacancy days and avoid making vacancy payments (if applicable) for units that are unoccupied, it is important for the PHA to refer eligible families to the owner as quickly as possible.
- The model plan language states that the PHA will make every reasonable effort to refer families to an owner within 10 business days. If the PHA has not already determined the final eligibility of those at the top of the waiting list, or at least started the final eligibility determination process, 10 business days may not be long enough. However, the use of the phrase “every reasonable effort” protects the PHA in cases where the time frame is missed (this phrase is taken directly from the regulations).
- On the other hand, if the PHA waits too long to refer families to the owner, the unit may remain vacant, potentially causing the owner to lose money (if the HAP contract does not call for vacancy payments to be made).
- Whatever time frame is established, it should be realistic and provide balance between the PHA’s need for time to determine final eligibility of those being referred, and the owner’s need to fill the vacancy as soon as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.



Option 2: Delete model plan language. Fill in the blank and substitute language as shown below.

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



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA’s policy.

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18-V.H. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

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



Decision Point: Will the PHA conduct screening to determine the applicant's suitability as a tenant? (Model plan, p. 18-~~2733~~)

Things to Consider

- In Section 3-III.D., the model plan states that the PHA will not conduct screening for suitability for applicants receiving tenant-based vouchers.
- For administrative ease, whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 3-III.D., you have adopted a policy that the PHA will screen for suitability, you may wish to adopt that same policy here. Again, this keeps the policies between the two programs as consistent as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: When will the PHA provide required information to the landlord, and will the PHA provide owners with information about a prospective tenant's past history beyond that required by HUD regulations? (Model plan, p. 18-~~2733~~)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 3-III.D. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 3-III.D., you did not adopt the model plan language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Owner Responsibility

This section states that [it](#) is the responsibility of the owner to screen for suitability of tenancy, and describes the factors that the owner can consider in doing so. **No policy decisions are required.**

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PART VI: OCCUPANCY

18-VI.A. OVERVIEW

This section is an overview of Part VI. **No policy decisions are required.**

18-VI.B. LEASE [24 CFR 983.256; ~~Notice PIH 2012-32, REV-3~~]

This provides a general description of lease requirements. **No policy decisions are required.**

Lease Requirements [24 CFR 983.256(c); Notice PIH ~~2012-32, REV-3~~2019-23]

This section describes required lease provisions. **No policy decisions are required.**

Tenancy Addendum [24 CFR 983.256(d)]

This section describes the requirements related to the HUD-prescribed tenancy addendum. **No policy decisions are required.**

Initial Term and Lease Renewal [24 CFR 983.256(f); *PBV Quick Reference Guide* (10/14)]

This section describes the requirements for the initial term of the lease and lease renewal. **No policy decisions are required.**

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

This section describes the provisions governing changes to the lease. **No policy decisions are required.**

Owner Termination of Tenancy [24 CFR 983.257; Notice PIH ~~2012-32, REV-3~~2019-23]

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

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. **No policy decisions are required.**

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

This section describes the owner’s right to determine how long a family may be absent from the contract unit. **No policy decisions are required.**

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Continuation of Housing Assistance Payments [24 CFR 982.258; Notice PIH ~~2012-32~~, REV-~~3~~2019-23]

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. The amount of rent the family pays to the owner in this situation differs under REV-2 and REV-3 of Notice PIH 2012-32. Under REV-2, the family will pay with owner an amount equal to their TTP. Under REV-3 of the Notice, the family will pay the owner the lower of the family's TTP, less the utility allowance, or any applicable maximum rent under LIHTC regulations. Under both notices, the family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

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Decision Point: Will the PHA request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units? (Model plan, p. 18-38)

Things to Consider

- In order to adopt this policy, the PHA would need to submit a waiver request to the PIH Field Office in accordance with Notice PIH 2018-16.
- The waiver would only apply to new admissions to the project after the conversion.
- If the project is a 100 percent RAD PBV project, the PHA must demonstrate that a waiver is necessary in order to avoid an undue concentration of poverty. See Notice PIH 2019-23 for more information.
- If the project is not 100 percent RAD PBV, the PHA must demonstrate that the property contains specific units for which there are insufficient alternative housing opportunities. See Notice PIH 2019-23 for more information.
- Option 1 below states that the PHA will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.
- If your PHA has requested and been granted a waiver to allow these families to occupy units, select Option 2.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

*****Admin updated to reflect language below. Change to Admin needed.*****

The PHA will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.



Option 2: If a waiver is requested, delete the model plan language and substitute with the language shown below.

The PHA has requested and has been granted a waiver from HUD in order to admit families whose TTP initially exceeds the gross rent for the unit. New admission families covered under the waiver are participants under the program and all of the family obligations and protections under RAD and PBV apply to the family. The unit is subject to all program requirements.

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Decision Point: For families admitted after the conversion, how will the PHA treat changes in family circumstances that occur within this 180-day period, and when must families report these changes? (Model plan, p. 18-~~323~~8)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 12-I.B. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 12-I.B., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 12-I.B. Family No Longer Requires Assistance, of the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If a participating family who was admitted after the RAD conversion receives zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Security Deposits [24 CFR 983.259; *PBV Quick Reference Guide* (10/14)]



Decision Point: What limits will the PHA place on the amount of security deposit the owner is allowed to collect from the family? (Model plan, p. 18-~~333~~9)

Things to Consider

- For administrative ease, the policy here is the same policy used in Section 9-I.E. Whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and landlords.
- If in Section 9-I.E., you did not adopt the model policy language, you may wish to change the policy language in this section as well. Again, this keeps the policies between the two programs as consistent as possible.
- For a full discussion of things to consider for this decision, see Section 9-I.E. Security Deposits, of the instruction guide.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.



Option 2: Delete the model plan language. Substitute the language below.

The PHA prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

**Instructions for Preparing Chapter 18: Project-Based Vouchers (PBV)
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**18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH ~~2012-32~~,
~~REV-32019-23~~]**

This section discusses public housing FSS participants at the time of conversion to RAD PBV. **No policy decisions are required.**

**18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH ~~2012-32~~, ~~REV-
32019-23~~]**

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding. **No policy decisions are required.**

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18-VI.E. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260;
Notice PIH ~~2012-32~~, REV-32019-23]



Decision Point: If the family is required to move because they are occupying 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 does require the features, what type of assistance will the family be offered and when will the family and owner be notified? (Model plan, p. 18-~~3541~~)

Things to Consider

- All in-place tenants at the time of conversion are eligible to remain in the project. Any non-RAD PBV units located in the same project are also subject to these requirements.
- Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project.
- If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family.
- The regulations state that when the PHA discovers a family is in the wrong-size unit, or in a unit with accessibility features that they do not need (and someone else does), the PHA must “promptly” notify the family and the owner. For administrative ease, the policy states that the PHA will notify the owner and family within 10 business days (the standard used throughout most of the plan) of the PHA making this determination.
- The regulations state that the PHA policy on offering continued housing assistance must be stated in the administrative plan. In addition, it lists the following forms of housing assistance that can be offered:
 - PBV assistance in the same project or in another project;
 - Other project-based housing assistance (e.g., public housing);
 - Tenant-based rental assistance under the voucher program; and
 - Other comparable public or private tenant-based assistance (e.g., under the HOME program).
- The model plan language calls for a family to first be offered PBV assistance in the same building or project. This may be the best alternative for the family because it keeps them in the same general location where services they need may be available, and allows children to stay in the same schools.

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- If an appropriate-size unit is not available in the same building or project, the model plan language states that families will be offered PBV assistance in another project as the next alternative. If your PHA only has one PBV project, this option should be eliminated from the plan.
- The final type of assistance that will be offered according to the model plan language is tenant-based voucher assistance.
- If a PHA has public housing units or other programs that could provide comparable units, these can be added to the list. In addition, the order in which the different types of housing assistance are offered can be changed to reflect local desires and circumstances.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

PBV assistance in the same building or project

PBV assistance in another project

Tenant-based voucher assistance



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If the PHA offers a family another form of assistance that is not a tenant-based voucher, how long will the family have to move out of the unit before their housing assistance payments will be terminated? (Model plan, p. 18-~~364~~2)

Things to Consider

- The regulations state that a PHA must determine a “reasonable period” in which a family must move out of a PBV unit once they have been offered an alternative form of assistance (other than a tenant-based voucher).
- When determining a “reasonable period,” the PHA should try to strike a balance between the family’s interest, the owner’s interests, and the PHA’s interest.
- Thirty (30) days is a reasonable amount of time for a family to be able to pack up their unit and move to a new unit that the PHA has offered.
- The PHA should consider that during this “reasonable period,” the unit the family is moving to will need to be held vacant. In addition, during this period the admission of an applicant family that qualifies for the unit that the family is currently living will also be delayed.
- The model plan language does allow the PHA to extend the 30-day period if it is necessary due to circumstances beyond the family’s control. Although examples of circumstances are given, the policy does not provide an exhaustive list.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

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



Option 2: Delete model plan language. Fill in the blanks and substitute language shown below.

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given ___ 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 ___-day time frame, the PHA will terminate the housing assistance payments at the expiration of this ___-day period.

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



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

Family Right to Move [24 CFR 983.261]

This section describes the family's right to move after the initial term of the lease. **No policy decisions are required.**

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Choice Mobility [Notice PIH [2012-32](#), REV [32019-23](#)]

- Decision Point: When may the family request a choice mobility voucher? (Model plan, p. 18-[3743](#))**

Things to Consider

- Regulations require that if the family terminates the assisted lease in accordance with program requirements at any time after the first year of occupancy, the PHA must offer the family the opportunity for continued tenant-based rental assistance.
- The model policy clarifies that if the family transfers units within the same project, the 12-month clock does not reset; however, if the family moves from one assisted project to another during the initial 12-month period, the 12-month clock does reset. Regulation and guidance do not explicitly address this issue; therefore, if the PHA wishes to adopt an alternate policy, the PHA should use Option 2.

- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

- Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

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Decision Point: How will the PHA maintain the waiting list if no vouchers are available when families request choice mobility? (Model plan, p. 18-~~3743~~)

Things to Consider

- In order to give choice mobility families priority over families on the tenant-based list, the PHA may either maintain a waiting list of choice mobility families separately from the tenant-based list or may place choice mobility families on the tenant-based list, provided all choice mobility families are issued vouchers before families on the tenant-based list. For ease of administration, Option 1 states that the PHA will maintain two separate lists.
- Further, since the optional turnover cap is monitored on an agency-wide basis, for ease of administration, Option 1 states that the PHA will maintain an agency-wide choice mobility list, rather than a development-specific list.
- The model policy assumes that the PHA has both standard and RAD PBV units. If the PHA does not have standard PBV units, Option 2 maintains the same language as Option 1 with references to the standard PBV program removed.
- If the PHA has both standard and RAD PBV units, families under both programs receive the same priority for choice mobility. Option 1 states the PHA will place families for both programs on the choice mobility waiting list by date and time of their request.
- Finally, if the PHA has both standard and RAD PBV, since there is no turnover cap for families on the standard PBV program, if the PHA wishes to adopt a turnover cap for RAD units, the PHA will need to identify standard PBV families on the mobility waiting list in the event the RAD PBV choice mobility cap is reached. In this case, the PHA would continue issuing vouchers to standard PBV families.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.



Option 2: ~~Use the model plan language shown below. No changes to the model plan are needed~~ Delete the model plan language and substitute the language as shown below.

The PHA will maintain an agency-wide waiting list for all RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Turnover Cap



Decision Point: Will the PHA establish a turnover cap for choice mobility? (Model plan, p. 18-~~3844~~)

Things to Consider

- This option only applies to PHAs where the total number of PBV units (including RAD PBV units) under HAP contract administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD.
- Turnover caps are optional for PHAs who meet the threshold. If the PHA either does not wish to establish a turnover cap or does not meet the 20 percent threshold, select Option 2.
- For PHAs that meet the threshold, as a result of participation in RAD it is possible for most or all of a PHA's turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. At the same time, the PHA-still needs to be able to use tenant-based vouchers to address the specific housing needs and priorities of the community.
- The PHA should consider the likelihood that little to no tenant-based vouchers will be issued, particularly in the second year after conversion, and the impact this may have on families on their tenant-based list, including the number of families on the PHA's tenant-based list and the average wait for a voucher.
- Turnover caps may be administratively burdensome because they require the PHA to establish a system by which individuals who requested a choice mobility voucher and were denied due to the cap to be given priority the following year when choice mobility vouchers are again available.
- The default policy imposes the cap because of the adverse effect choice mobility may have on families on the PHA's tenant-based list. Select Option 1 if the PHA meets the 20 percent threshold and wishes to implement the cap.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.



Option 2: ~~Use the model plan language shown below. No changes to the model plan are needed~~ Delete the model plan language and substitute the language as shown below.

The PHA will not establish a choice mobility cap.



Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Emergency Transfers under VAWA [Notice PIH 2017-08]

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



Decision Point: What type of assistance will the PHA offer victims of domestic violence, dating violence, sexual assault, or stalking who have been living in their PBV unit for less than one year or who have been living in their unit for a year or more but for whom a voucher is not immediately available? (Model plan, p. 18-~~39~~45)

Things to Consider

- ~~• If the family terminates the lease in accordance with PHA requirements at any time after the first year of occupancy, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance [24 CFR 983.261]. If a voucher is not immediately available, the PHA must give the family the next available opportunity for continued tenant-based assistance.~~
- ~~• If the family has lived in the unit for less than a year, the PHA is not required to provide the family with any form of continued assistance.~~
- Notice PIH 2017-08 requires that the PHA include policies that address when a victim of domestic violence, dating violence, sexual assault, or stalking requests to move after less than a year. The model policy states that the PHA will first offer the participant an internal transfer to another PBV unit in the same or different development. This is because a transfer within the program can be made quickly and without re-determining program eligibility.
- If an internal transfer is not feasible, the model policy offers the option for an external transfer to either the PHA's tenant-based HCV program or the PHA's public housing program. If the PHA does not have a public housing program, the model language will need to be edited. Further, the model policy also assumes that the PHA's public housing program has a preference for victims of domestic violence, dating violence, sexual assault, or stalking. If it does not, the model policy will need to be edited.
- ~~• If the family terminates the lease in accordance with PHA requirements at any time after the first year of occupancy, the PHA is required to offer the family the opportunity for continued tenant-based assistance in the form of a voucher or other comparable tenant-based rental assistance [24 CFR 983.261]. If a voucher is not immediately available, the PHA must give the family the next available opportunity for continued tenant-based assistance.~~
- ~~• If the family has lived in the unit for less than a year, the PHA is not required to provide the family with any form of continued assistance.~~

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- While the PHA cannot waive the requirement that the participant live in the unit for a year, the PHA may place the participant on the HCV waiting list and expedite the process for receiving a tenant-based voucher by offering a waiting list preference for such individuals. Notice PIH 2017-08 requires the PHA to select PBV residents from the HCV tenant-based waiting list in this situation only. The model policy assumes the PHA has adopted such a preference (See Section 4-III.C.). If your PHA did not adopt such a preference, the language in the model policy will need to be edited.

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- HUD recommends that when using a site-based waiting list, the PHA consider waiting list policies that expand opportunities for tenants seeking an emergency transfer under the PHA's Emergency Transfer Plan (ETP) under VAWA. As such, and to align this policy with the emergency transfer policy [regarding preferences](#) found in section 18-V.E., Option 1 states [that](#) the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another. If the PHA does not have site-based waiting lists, or if this policy was not adopted in 18-V.E., Option 1 will need to be revised to remove this language.
- Further, the PHA must address situations in which victims who are eligible to receive a tenant-based voucher are unable to receive one because a voucher is not immediately available. The model policy states that the PHA will first offer the participant an internal transfer to another PBV unit in the same or different development. This is because a transfer within the program can be made quickly and without re-determining program eligibility.

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Option 1: Use the model plan language shown below. No changes to the model plan are needed.

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

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer to a PBV development, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

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

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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18-VI.F. REEXAMINATIONS [*PBV Quick Reference Guide (10/14)*]

This section describes initial certification for in-place families. **No policy decisions are required.**

18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH ~~2012-32~~, REV-32019-23]

This section describes processing the earned income disallowance (EID) for families who were receiving the exclusion at the time of the conversion. Any non-RAD PBV units located in the same project are also subject to these requirements. **No policy decisions are required.**

18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH ~~2012-32~~, REV-32019-23]

This section describes the procedural rights for public housing residents in projects converting to PBV under RAD. Any non-RAD PBV units located in the same project are also subject to these requirements. **No policy decisions are required.**

18-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PIH ~~2012-32~~, REV-32019-23]

This section describes the circumstances under which residents in converted projects have the right to request informal hearings and the requirements concerning such hearings. **No policy decisions are required.**

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PART VII: DETERMINING CONTRACT RENT

18-VII.A. INITIAL CONTRACT RENTS [Notice PIH ~~2012-32, REV-32019-23~~]

This section provides an overview of Part VII. **No policy decisions are required.**

**18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH ~~2012-32, REV-32019-23~~;
PBV Quick Reference Guide (10/14)]**

This section describes how rents are adjusted annually. **No policy decisions are required.**

Rent Decrease

No policy decisions are required.

**18-VII.C. UTILITY ALLOWANCES [Notice PIH ~~2012-32, REV-32019-23~~;
PBV Quick Reference Guide (10/14); Notice PIH 2018-11]**



Decision Point: What utility allowance will the PHA use for RAD PBV developments? (Model plan, p. 18-4551)

Things to Consider

- The PHA may use the HCV utility allowance for RAD PBV units.
- However, unlike in the standard PBV program, the PHA may instead apply site-specific utility allowances.
- If a site-specific utility allowance is used, the utility allowance must be calculated in accordance with Notice H 2015-04. The project owner may carry out all of the responsibilities associated with the notice, but the PHA must ensure that the utility allowance was calculated correctly.
- The site-specific utility allowance would apply to any non-RAD PBV units in the project as well.
- ~~in certain cases. Requirements differ depending on whether the project will include non-RAD PBV units or not.~~
- ~~For converting projects that are 100 percent RAD PBV, HUD has waived 24 CFR 983.2(c)(6)(iii) which requires PHAs to apply the HCV utility allowance to PBV properties. A site-specific utility allowance may used. If so, the utility allowance is calculated by the owner using Housing Notice 2015-04.~~
- ~~For converting projects that include non-RAD PBV units, PHAs may request a waiver from the PIH field office to establish site-specific utility allowance schedules for both RAD and non-RAD PBV units at the converting project. To be approved, the PHA must show good cause that the utility allowance schedule for their voucher program would either:~~
 - ~~Create an undue cost for families because the utility allowance provided under the voucher program is too low; or~~

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- o ~~Discourage conservation and efficient use of HAP funds because the utility allowance provided under the voucher program would be excessive if applied to the covered project~~
 - ~~The PHA must submit an analysis of utility rates for the community and consumption data of project residents in comparison to community consumption rates, and a proposed alternative methodology for calculating utility allowances on an ongoing basis. When, as a result of a RAD conversion, the project will experience an improvement in energy and water efficiencies, PHAs can submit UA projections performed by a professional engineer, based on the project's plans and specifications that at a minimum take into account specific factors, including but not limited to unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The projections must be submitted in the RAD UA Projections.~~

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- Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

The PHA will use the HCV utility allowance schedule for the RAD PBV developments.

- Option 2: ~~Use the model plan language shown below. No changes to the model plan are needed~~ Delete the model plan language and substitute the language as shown below.*

The PHA will use site-specific utility allowances at the following developments:

[List all developments with site-specific utility allowances]

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

18-VII.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract. **No policy decisions are required.**

How to Determine Reasonable Rent

This section explains how the PHA should determine whether or not a rent is reasonable. **No policy decisions are required.**

Comparability Analysis

This section describes the analysis the PHA must complete and the records that must be kept to document that the PHA has determined that a PBV rent is reasonable. **No policy decisions are required.**

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency entity approved by HUD in accordance with PBV program requirements. **No policy decisions are required.**

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PART VIII: PAYMENTS TO OWNER

18-VIII.A. HOUSING ASSISTANCE PAYMENTS

This section describes under what conditions the PHA will make housing assistance payments to the owner. **No policy decisions are required.**

18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]



Decision Point: If the PHA determines that the owner is responsible for a vacancy and therefore may not keep the housing assistance payment for the month in which the family moved out, how will the PHA recover the amount owed from the owner? (Model plan, p. 18-4854)

Things to Consider

- The PHA has already established policies regarding amounts owed to the PHA by a landlord for the tenant-based voucher program.
- Following the same policies for both the PBV and tenant-based programs, when possible, simplifies program administration and minimizes confusion for owners and staff.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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Decision Point: If an owner's HAP contract calls for vacancy payments to be made, what must the owner do in order to receive vacancy payments? (Model plan, p. 18-4854)

Things to Consider

- Because it is possible that not all HAP contracts will call for vacancy payments to be made, the model plan language clarifies that this policy is conditional.
- To qualify for vacancy payments, the owner must notify the PHA of any vacancy in accordance with the policy in Section 18-V.G. (five business days).
- Although the notification of the vacancy must be submitted within five business days, the actual request for vacancy payments will be submitted later (following the vacancy period for which the owner is seeking reimbursement).
- The request for the vacancy payment must be made within 10 business days of the end of the period for which the owner is seeking reimbursement. In addition, the owner has 10 business days to provide any additional documentation requested by the PHA to support the owner's request (10 business days is the standard timeframe used throughout much of the plan).



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business 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 PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; [Notice PIH 2019-23](#)]

Initial Certifications [Notice PIH 2019-23]

This section clarifies the amount that will be used to determine tenant rent on the family's initial certification. **No policy decisions are required.**

Tenant and PHA Responsibilities

This section clarifies the tenant and PHA's responsibilities in making payments to the owner for tenant rent. **No policy decisions are required.**

Utility Reimbursements



**Decision Point: To whom will the PHA make utility reimbursement payments?
(Model plan, p. 18-[4955](#))**

Things to Consider

- In Section 6-III.A., the model plan states that the PHA will make utility reimbursement payments to the family rather than the utility company.
- For administrative ease, whenever possible, the PHA should have the same policies for tenant-based and project-based assistance. It minimizes the potential for errors and confusion among staff and participants.
- If in Section 6-III.A., you have adopted a policy that utility reimbursement payments will be made to the utility supplier, you may wish to adopt that same policy here. Again, this keeps the policies between the two programs as consistent as possible.



Option 1: Use the model plan language shown below. No changes to the model plan are needed.

The PHA will make utility reimbursements directly to the family.



Option 2: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.

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18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH ~~2012-32, REV-32019-23~~]



Decision Point: Will the PHA conduct required phase-ins of tenant rent increases over three years or five years? (Model plan, p. 18-~~5056~~)

Things to Consider

- If ~~an in-place tenant's monthly rent~~ the amount the tenant would pay for rent and utilities (TTP) increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three or five years.
- A PHA must create a policy setting the length of the phase-in period at three years, five years, or a combination depending on circumstances.
- For example, a PHA may create a policy that uses a three-year phase-in for smaller increases in rent and a five-year phase-in for larger increases in rent.
- This policy must be in place at conversion and may not be modified after conversion.
- The model policy states that the PHA will communicate this to the family at the time the PHA first determines the family qualifies for the phase-in. The PHA may choose to communicate this at a different point since the RAD notice only states that the family be notified in writing but does not state when notification must occur.
- The default policy opts for conducting phase-ins over a three-year period for ease of tracking. However, Option 2 contains language for a five-year phase-in should your PHA find this more suitable to its circumstances.
- Note: the policy options below reflect Notice PIH ~~2012-32, REV-32019-23~~. For other phase-in options, please see Notice PIH 2012-32, REV-2.

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- *Option 1: Use the model plan language shown below. No changes to the model plan are needed.*

*****Admin updated to reflect language below. Change to the Admin needed.*****

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP ~~rent~~ increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

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- Option 2: Use the model plan language shown below. No changes to the model plan are needed. Delete the model plan language and insert the language as shown below.*

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a five-year phase-in for in-place families whose TTP rent increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 20 percent of difference between the most recently paid TTP or flat rent and the standard TTP

Year 2: Year 2 any recertification (interim or annual) AR and any IR prior to Year 3 AR: 25 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 any recertification (interim or annual) AR and any IR prior to Year 4 AR: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 4: Year 4 any recertification (interim or annual) AR and any IR prior to Year 5 AR: 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 5 Annual recertification and all subsequent recertifications: Full calculated PBV Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

- Option 3: Use PHA-established policy. Edit the model plan language or delete it and insert the PHA's policy.*

18-VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

This section describes when an owner is able to charge a family living in a PBV unit for meals and supportive services. **No policy decisions are required.**

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants. **No policy decisions are required.**

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FINALIZING THE DOCUMENT

Take a final look at the changes you have made in this chapter of the administrative plan.
Have you:

- (1) Added or subtracted any exhibits at the end of the chapter? Yes No.
- (2) Added, subtracted or reordered any major sections (at the A, B, or C level?) Yes No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.



Decision Point: Are any changes required to this chapter?

- No. No changes to the model plan are needed.
- Yes. Edits only. Edit and insert PHA language as appropriate.
- Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.



Decision Point: Are changes required in other chapters as a result of changes to this chapter?

Check the “Things to Consider” under each decision point to identify if changes to the model plan policy will require changes to policies in other chapters of the plan.

- No. Changes to other chapters are not necessary.
- Yes. Changes to the following chapters are also required: