

HOUSING CHOICE VOUCHER (HCV) ADMINISTRATIVE PLAN REVISIONS

(Effective upon HOTMA implementation)

The following is a summary, organized by chapter, of the policy and regulatory updates made to the HCV Administrative Plan that will become effective upon the date SCCHA implements HOTMA.

Updates are coded as follows:

Black = HUD-required policy

Purple = Discretionary policy

Red = Policy using MTW flexibility

CHAPTER 3. ELIGIBILITY FOR ADMISSION

- 3.1 Composition of Applicant Families – updated to align with HUD’s expanded definition of “family”.
- 3.4 Asset Limitation – added section detailing new HUD asset limitation requirement for program admission, including SCCHA’s MTW policies regarding the asset limitation.

CHAPTER 4. FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

(Changes affect non-MTW programs only)

- 4.1 Allowances – updated to add dependent deduction and elderly or disabled family deduction amounts, which will be adjusted annually by HUD for inflation. Additionally, HOTMA increases the threshold above which medical/disability assistance expenses can be deducted from income.
- 4.2 Hardship Exemption for Medical/Disability Expense Deduction – added section detailing new hardship exemption policies for a family to request a higher medical/disability expense deduction.
- 4.3 Hardship Exemption for Child Care Expense Deduction – added section detailing new hardship exemption policies for a family to continue receiving the child care expense deduction.
- 4.4 Earned Income Disallowance – HUD regulations removed EID, except for families who were receiving EID as of December 31, 2023 will continue to receive the full benefit until the remaining timeframe for their benefit expires.

CHAPTER 5. VERIFICATION OF FACTORS AFFECTING ELIGIBILITY DETERMINATIONS AND REEXAMINATIONS

- 5.1 Hierarchy of Verification – updated HUD hierarchy of verification requirements.
- 5.2 Income from Assets – updated HUD regulations for calculating income from assets, specifically that imputed income from assets will be included in annual income if total net family assets are over \$50,000 (adjusted annually by HUD for inflation).
- 5.3 Income Exclusions – updated HUD guidance regarding verification of excluded income and partially excluded income that SCCHA is using MTW flexibility to fully exclude.
- 5.4 Age of Applicant Verification – expanded the acceptable age of verification documents SCCHA receives from 60 days to 120 days.

- [5.6 Nonrecurring Income](#) – replaced old definition of “temporary, nonrecurring, and sporadic income” with new HUD definition of “nonrecurring income”.
- [5.8 Verification of Social Security Number \(SSN\)](#) - added new policies for how/when SCCHA may accept self-certification of SSN if other SSN documentation cannot be obtained.

CHAPTER 10. REEXAMINATIONS

- [10.2 Interim Reexaminations](#) – updated policies for when SCCHA will process interim reexaminations for decreases or increases in income.
- [10.7 Effective Date of Interim Reexaminations](#) – updated with HUD-required effective dates for interim reexaminations.
- [10.9 Asset Limitation at Reexaminations](#) - added section detailing SCCHA’s policies for enforcing the asset limitation at reexaminations.
- [10.10 De Minimis Error](#) - added SCCHA’s policy for crediting families who are overcharged their rent portion due to SCCHA error.

CHAPTER 12. DENIAL OR TERMINATION OF ASSISTANCE

- [12.2 Termination of Assistance](#) - updated HUD consent form requirements for families and SCCHA’s policy on family revocation of consent (families will be allowed to revoke consent until the next reexamination).

CHAPTER 16. PROJECT-BASED VOUCHER PROGRAM

- [16.11 Initial Eligibility](#) – replaced MTW activity with new HUD regulation allowing PHAs to use other programs’ determination of income (“safe harbor determination”) to determine family’s annual income. SCCHA will continue to use the Tenant Income Certification (TIC) form to verify family income for applicants of LIHTC-subsidized PBV units.

CHAPTER 18. GLOSSARY

- Updated definitions of the following to align with HUD regulatory changes:
 - Family
 - Annual income
 - Child care expenses
 - Foster child and Foster adult
 - Imputed asset income
 - Health and medical care expenses



SECTION 8 HOUSING CHOICE VOUCHER (HCV) PROGRAM ADMINISTRATIVE PLAN

Amended ____, 2024

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CHAPTER 1. POLICIES AND OBJECTIVES

1.0 INTRODUCTION

The Housing Choice Voucher (Section 8) Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937 (the “Act”). The Section 8 rental assistance programs are federally funded and administered for the City of San Jose and County of Santa Clara by the Santa Clara County Housing Authority.

In January 2008, the U.S. Department of Housing and Urban Development (HUD) signed a 10-year Moving to Work (MTW) agreement with the Santa Clara County Housing Authority, which has since been extended to the end of the fiscal year 2028. This demonstration program offers public housing authorities the opportunity to design and test innovative housing and self-sufficiency strategies for low-income families by allowing exemptions from certain public housing rules. A copy of the Housing Authority’s (HA’s) MTW Annual Plan can be found on the HA’s website at www.scchousingauthority.org.

1.1 OVERVIEW AND PURPOSE OF THE PLAN

24 CFR 982.54(a): “The PHA must adopt a written administrative plan that establishes local policies for administration of the program in accordance with HUD requirements. The administrative plan and any revisions of the plan must be formally adopted by the PHA Board of commissioners or other authorized PHA officials. The administrative plan states PHA policy on matters for which the PHA has discretion to establish.”

Policy:

This Administrative Plan defines the HA’s policies for operation of its housing programs.

The HA is responsible for complying with all Department of Housing and Urban Development's (HUD) Section 8 Regulations, unless the HA establishes an alternative policy authorized by its HUD-approved MTW plan.

Where no MTW policy or HA policy exists, then Section 8 rules and regulations apply.

1.2 HOUSING AUTHORITY PROGRAMS

24 CFR 982.54(c): “The PHA must administer the program in accordance with the PHA administrative plan.”

Policy:

The HA's Administrative Plan is applicable to the following programs:

MTW Programs:

Housing Choice Voucher

Project-Based Voucher

Family Unification Program (FUP) Vouchers

Foster Youth Initiative (FYI) Vouchers

Non-Elderly Disabled (NED) Vouchers

All Mainstream Vouchers (Mainstream 5-Year and Mainstream 811 vouchers)

Tenant Protection Vouchers, including Enhanced Vouchers*

Veterans Affairs Supportive Housing (VASH) Vouchers**

Emergency Housing Vouchers (EHV)***

*** All MTW flexibilities/activities can be applied to Enhanced vouchers, except any activities that affect how the Housing Assistance Payment is calculated.**

**** All MTW flexibilities/activities can be applied to VASH vouchers, except MTW activities 2009-5, 2009-8, 2009-13, 2009-14, 2010-5, 2012-2, 2012-3, 2012-4, 2012-5, 2013-1, 2014-1, 2014-4, 2016-1, 2017-2, 2018-1, 2019-1, and 2019-3. (Descriptions of MTW activities can be found in the most current MTW Plan/Report located on the HA's website).**

***EHVs may include additional services such as: housing search assistance, security deposit/ utility deposit/rental application and holding fees, owner related uses, and other related uses as outlined in PIH Notice 2021-15.

Non-MTW Programs:

Moderate Rehabilitation

1.3 MAXIMUM VOUCHER UTILIZATION RATE

Moving to Work Agreement, Section II. D.: "The Agency shall (ii) assist substantially the same total number of eligible low-income families under MTW as would have been served absent the demonstration".

Policy:

The HA will issue MTW Housing Choice and Project Based Vouchers as necessary to increase or maintain its voucher utilization to a maximum level of 95% of SCCHA's cumulative appropriated calendar year Housing Assistance Payment (HAP) funding.

1.4 CODE OF CONDUCT

24 CFR 982.161(a): “Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

Any present or former member or officer of the PHA (except a participant commissioner)…”

Policy:

The HA requires compliance with HUD regulation 24 CFR 982.161 and the State of California Conflict of Interest Code.

HA employees, officers, agents, contractors or subcontractors may not solicit or accept any gifts or gratuities from any HA-related business source.

HA employees must sign a Conflict of Interest Procedure and Declaration annually.

Violations of the Conflict of Interest policies will result in appropriate, progressive disciplinary action.

1.5 AFFIRMATIVELY FURTHERING FAIR HOUSING

24 CFR 100.5(a): “It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. No person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status or national origin in the sale, rental or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions.”

24 CFR 5.105(a)(2): “A determination of eligibility for housing that is assisted by HUD or subject to mortgage insured by the Federal Housing Administration shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.”

24 CFR 982.53(b)(2): “The PHA will affirmatively further fair housing in the administration of the program.”

Policy:

The HA takes the following reasonable steps to affirmatively further fair housing:

The Housing Authority complies fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The HA will not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of ancestry, color, disability, familial or marital status, national origin, race, religion, gender, gender identity, sex, sexual orientation or source of income.

All Housing Authority staff will be required to attend fair housing training and be informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service.

Fair Housing posters are posted throughout the Housing Authority office/s, including in the lobby and interview areas and the equal opportunity logo will be used on all outreach materials.

The HA provides information in its briefing package and at the HA lobby front desk on the fair housing rights of HCV participants, such as the HUD pamphlet and complaint form "Are You a Victim of Housing Discrimination?" and provides information on where a discrimination complaint may be filed, including the address, telephone number and TTY number of HUD's local fair housing office, the national Fair Housing Complaint Hotline and the Federal Information Relay Service.

The HA provides information in its briefing package and at the HA lobby front desk on the contact information for local organizations that provide legal advice for persons who may be the victim of housing discrimination.

The HA provides individual oral briefings for persons with disabilities when requested which includes a review of the fair housing material in the briefing package.

The HA provides fair housing material in alternative formats for participants with disabilities upon request.

The HA provides assistance with completing and filing a fair housing complaint upon request.

The HA has written procedures to ensure that persons with disabilities have equal access to the HA's programs.

The HA conducts ongoing outreach (and targeted outreach prior to opening its waiting list) to agencies that serve persons with disabilities, including independent living centers, veterans services centers and community agencies that provide supportive services for persons with disabilities.

The HA provides participants with lists of accessible units that may be rented with a Housing Choice Voucher.

The HA has procedures in place to extend and suspend housing search time for persons with disabilities when necessary.

The HA has procedures in place that address requests for reasonable accommodations for persons with disabilities.

The HA has procedures in place to advise program applicants and participants of the availability of reasonable accommodations to remove barriers to program participation.

The HA has procedures in place that will provide exceptions to the HCV payment standards as a reasonable accommodation.

The HA has procedures in place that will allow the addition of an extra bedroom as a reasonable accommodation.

The HA has procedures in place that will allow the addition of a live in aide as a reasonable accommodation.

The HA has procedures in place that will provide program applicants and participants the opportunity to complete the HUD Form 92006 (Supplement to the Application for Federally Assisted Housing) which names an alternate person for the HA to contact when issues arise.

The HA has a designated Section 504 Coordinator and program applicants and participants are provided the Section 504 Coordinator contact information.

The HA maintains ongoing relationships with agencies that serve persons with disabilities and provides a list of those agencies to clients in need.

1.6 ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

Executive Order 13166 “Recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.”

Policy:

The HA will take affirmative steps to ensure that all persons with limited English proficiency have equal access to the program. A person with limited English Proficiency (LEP) is a person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English.

Translation services will be provided by certified bilingual staff. When bilingual staff are not available, the HA will contract with outside translation services at no cost to the

families.

Where LEP persons desire, they will be permitted to use at their own expense, a translator of their own choosing. The family-provided translator may be in place of or as a supplement to the free language services offered by the HA. The translator may be a family member or friend at least 18 years of age.

In cases of an informal review or hearing, the HA will use HA staff or outside translation services.

The HA will also provide written translation of vital documents for each eligible LEP language group as determined by the HA.

Reasonable efforts will be made to inform families of the free language services such as posting multilingual signs in the front lobby, updating the website, and notifying families of the services during the family briefing sessions.

1.7 PROGRAM ACCESSIBILITY FOR PERSONS WITH DISABILITIES

24 CFR Part 8.6: “The recipient shall take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public.”

Policy:

Accessibility for the hearing impaired is provided by the TTD/TTY (Text telephone display/teletype) telephone service and California Relay Service.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request.

When requested in public meetings, presentations or in meetings with HA staff, one-on-one assistance with alternate forms of communication will be provided. Examples of alternative forms of communication are sign language interpretation; having material or presentation slides explained orally by staff; or having a third party representative (a friend, relative or advocate) receive, interpret and explain housing materials and be present at all meetings.

1.8 REASONABLE ACCOMMODATIONS POLICY

24 CFR 8.11: “A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant with handicaps or employee with handicaps, unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.”

Policy:

The HA's policies are designed to provide assurances that persons with disabilities will be given a reasonable accommodation, upon request, so that they may fully access and use the housing program and related services.

The right to request a reasonable accommodation is applicable to all situations described in this Administrative Plan including when a family initiates contact with the HA, when the HA initiates contact with a family including when a family applies, and when the HA schedules or reschedules appointments of any kind.

Housing programs applicants and participants will be notified of their right to request an accommodation in certain HA forms and letters, such as initial application and reexamination forms and appointment letters.

An applicant or participant who has a disability must meet the essential obligations of the Assisted Housing Program and the lease with the owner. All applicants and participants must be able to pay rent, care for their unit, report required information to the Housing Authority and refrain from disturbing neighbors. The applicant or participant may meet these obligations independently or with assistance from another person or agency.

An applicant or participant with a disability or a person acting on their behalf, must first make a written or verbal request for a specific change to a policy or practice as an accommodation of their disability before the HA will treat a person differently than anyone else.

To be eligible to receive a reasonable accommodation, the applicant or participant must be classified as a person with a disability using the following definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual;

A record of such impairment; or

Being regarded as having such an impairment.

Requests for reasonable accommodation will be assessed on a case-by-case basis. If the HA finds that the requested accommodation creates an undue administrative or financial burden, the HA will present an alternate accommodation that will still meet the need of the person. If no alternate accommodation exists, the HA may deny the request.

If the disability and/or need for the accommodation is not readily apparent, the HA will require written verification of the disability and/or need for the accommodation from a knowledgeable professional or reliable third party. The HA will provide a written decision to the person requesting the accommodation within 15 days of the date that the verification is received. If a person is denied the accommodation or feels that the

alternative suggestions are inadequate, they may request an informal hearing to review the HA's decision.

1.9 VIOLENCE AGAINST WOMEN ACT (VAWA)

Public and Indian Housing Notice 2006-23: "...VAWA prohibits the eviction of, and removal of assistance from, certain persons living in public or Section 8-assisted housing if the asserted grounds for such action is an instance of domestic violence, dating violence, sexual assault, or stalking as those terms are defined in Section 3 of the United States Housing Act of 1937 as amended by VAWA (42 U.S.C. 13925)."

1.10 MEDICAL MARIJUANA

PIH Memorandum, 2-10-2011: Medical Marijuana Use in Public Housing and Housing Choice Voucher Programs: "PHAs in states that have enacted laws legalizing the use of medical marijuana must therefore establish a standard and adopt written policy regarding whether or not to allow continued occupancy or assistance for residents who are medical marijuana users. The decision of whether or not to allow continued occupancy or assistance to medical marijuana users is the responsibility of PHAs, not of the Department."

Policy:

Because some use of medical marijuana is legal under California law, the HA will not deny or terminate assistance solely for the use of medical marijuana. However, the HA may deny or terminate assistance for serious lease violations or criminal convictions that may involve marijuana cultivation, manufacture, possession or sale (see Chapter 12, section 12.2 of the Administrative Plan).

1.11 RECORD RETENTION

24 CFR 982.158(e): "During the term of each assisted lease, and for at least three years thereafter, the PHA must keep: (1) A copy of the executed lease; (2) The HAP contract; and (3) The application from the family."

24 CFR 982.158(f): "The PHA must keep the following records for at least three years: (1) Records that provide income, racial, ethnic, gender and disability status data on program applicants and participants; (2) An application from each ineligible family and notice that the applicant is not eligible; (3) HUD-required reports; (4) Unit inspection reports; (5) Lead-based paint records as required by part 35, subpart B of this title; (6) Accounts and other records supporting PHA budget and financial statements for the program; (7) Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and (8) Other records specified by HUD."

Policy:

In 1999, the HA, with HUD approval, established a Document Management System for the conversion of program participants' hard copy files to electronic files. The electronic files contain all required documentation in compliance with program requirements.

1.12 PRIVACY RIGHTS

5 U.S.C. 552a(b): "No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any

committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711(e) of Title 31.”

Policy:

The HA will adhere to federal, state and local laws with regard to the release of information to outside parties about program applicants, participants and property owners.

CHAPTER 2. WAITING LIST ADMINISTRATION

2.0 INTRODUCTION

This chapter describes the policies for completing registration for housing assistance, criteria related to placement on the waiting list and removal from the list, and limitations as to who may apply.

2.1 WAITING LIST: ADMINISTRATION OF WAITING LIST

24 CFR 982.204(a): “Except for special admissions, participants must be selected from the PHA waiting list. The PHA must select participants from the waiting list in accordance with admission policies in the PHA administrative plan.”

24 CFR 983.251(c)(3): “The PHA may use separate waiting lists for PBV units in individual projects or buildings (or for sets of such units) or may use a single waiting list for the PHA’s whole PBV program.”

24 CFR 882.513(b): “Waiting list. The PHA must maintain a waiting list for applicants for the Moderate Rehabilitation Program.”

Policy:

Applicants Registered on the 2006 Waiting Lists: Families are given a position number and placed on the waiting list in an order determined by computerized random selection. The HA selects applicants from the 2006 waiting list based on their position number. The HA will not draw applicants from the interest lists until the 2006 Waiting Lists are exhausted.

Applicants Registered on the Interest Lists Opened 2020: The Housing Authority administers permanently open interest lists. Families who wish to be considered for any of the Housing Authority’s federally funded rental assistance programs must register on its interest lists. Registration forms will be made available in an accessible format upon request from a person with a disability. Paper registration forms will be made available to persons with no access to technology.

The HA maintains one interest list for its Housing Choice Voucher program and separate site-based lists for all properties that have a Property Voucher (Project Based Voucher or Moderate Rehabilitation program) Housing Assistance Payment contract.

An applicant remains active on the interest list for one year. An interest list applicant may renew their application or reactivate an inactive application for another year at any time.

As Housing Choice Vouchers and/or Property vouchers (Project Based Voucher or

Moderate Rehabilitation program units) become available, active applicants are drawn from the interest list by computerized random selection and placed on a waiting list based on the date and time of the draw.

2.2 WAITING LIST: DIFFERENT PROGRAMS

24 CFR 982.205(a)(1): “A PHA may merge the waiting list for tenant-based assistance with the PHA waiting list for admission to another assisted housing program...”

MTW Plan:

“[The HA will] continue to operate one combined waiting list for both the County of Santa Clara and the City of San José for the Housing Choice Voucher (HCV) Program and the Project-Based Voucher (PBV) Program.”

2.3 WAITING LIST: LOCAL PREFERENCES

24 CFR 982.207(a)(1): “The PHA may establish a system of local preferences for selection of families admitted to the program. PHA selection preferences must be described in the PHA administrative plan.”

24 CFR 982.207(b)(3): “The PHA may adopt a preference for admission of families that include a person with disabilities. However, the PHA may not adopt a preference for admission of persons with a specific disability.”

24 CFR 982.207(b)(5): “The PHA may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.”

California HSC § 34322.2(b): “Priority shall be given within each preference category to families of veterans and servicemen.”

MTW Plan:

“SCCHA will explore various means to target increased assistance to the chronically homeless including... taking steps to provide vouchers to chronically homeless families that are actively participating in supportive programs with designated service providers.”

“Based on community need and subject to State and Federal Fair Housing laws and MTW statutory authorizations, SCCHA may propose to receive direct referrals of chronically homeless families from non-profit agencies and community-based organizations.”

“With its Moving to Work (MTW) authority, and similar to activity 2009-5, which created a direct referral program for the chronically homeless, SCCHA and designated

community partners will target vouchers to [the] Special Needs Population (SNP) as follows: (1) SCCHA will...determine program eligibility and provide rental assistance; (2) A community partner will provide referrals of clients to SCCHA and case management to the designated SNP.”

Policy:

Based on the availability of voucher funding, the HA recognizes the following separate local preferences to its Section 8 Housing Choice Voucher and site-based Project Based Voucher or Moderate Rehabilitation Waiting Lists.

- A preference for applicants who lived or worked in Santa Clara County within the last five years from the date they were randomly drawn to a waiting list to be offered assistance. The Executive Director has the authority to turn off the preference if data analysis of applicant demographics suggests that the preference is unintentionally impacting protected classes; and
- In the case of a State of California-declared disaster, the following preference will be activated: A preference for very-low income applicants who are Santa Clara County renters and have become homeless due to a State of California-declared disaster, for the length of time and/or the number of vouchers as the Executive Director determines is appropriate and available.

A priority will be given within each preference category for the following:

- Applicants with a household member who is an active member or veteran of the U.S. armed forces. Veterans must be able to document a discharge status other than the following: Bad Conduct Discharge (issued by special court-martial or general court-martial), Dishonorable Discharge, or Entry-level Separation or Discharge.

In accordance with PIH Notice 2020-01 issued on January 22 2020, the HA will issue available Mainstream 5-year vouchers (Increment 59-MS5) to eligible Section 8 Housing Choice Voucher waiting list households that include one or more non-elderly persons (ages 18-61) with verified disabilities.

In accordance with PIH Notice 2021-15 issued on May 5, 2021, the HA will issue 1,033 Emergency Housing Vouchers (EHVs), awarded by HUD, to eligible applicants referred by the Santa Clara County Continuum of Care. The applicants referred bypass the Section 8 Housing Choice Voucher waiting list.

The HA will receive direct referrals of applicants from partnering agencies for the following programs as stipulated in HUD program regulations, Notice of Funding Availability Awards (NOFA) or by an approved MTW activity. The applicants referred to these programs bypass the Section 8 Housing Choice Voucher or Project Based Voucher waiting lists:

- Chronically Homeless Direct Referral (CHDR) Program: Chronically homeless families who participate in supportive programs and utilize case management services.
- Special Needs Population Direct Referral (SNDR) Program: Persons with disabilities who experience multiple barriers to housing and who require intensive supportive services.
- Veterans Affairs Supportive Housing (VASH) Program: Homeless veterans who receive case management and clinical services through the Veterans Affairs Palo Alto Health Care System.

The HA may draw from the waiting or interest_list and/or receive direct referrals of applicants (bypassing the Section 8 Housing Choice Voucher or Project Based Voucher waiting or interest lists) by the Santa Clara County Office of Supportive Housing for the following special program as stipulated in HUD program regulations or Notice of Funding Availability Awards (NOFA):

- Mainstream Voucher Program (Mainstream 59-MS811): Household that includes one or more non-elderly person (ages 18-61) with verified disabilities. Preference for assistance will be given to individuals/families who are transitioning out of institutional or other segregated setting, at serious risk of institutionalization, homeless or at risk of becoming homeless.

2.4 **OPENING THE WAITING LIST**

24 CFR 982.206(a)(1): “When the PHA opens a wait list, the PHA must give public notice that families may apply for tenant-based assistance. The public notice must state where and when to apply.”

Policy:

The HA will advertise the interest lists through public notice in newspapers, minority publications and other media entities and through mailings and/or presentations to community organizations including those organizations serving populations of persons with disabilities.

Information provided will include the telephone number, and website of the HA, how to apply on the interest lists, and information on eligibility requirements.

The HA will open its Section 8 Housing Choice Voucher waiting list for the following populations in accordance with the Notice of Funding Availability Award (NOFA) instructions issued for these programs:

- Family Unification Program (FUP)- Families or youth referred by the Santa Clara County Department of Family and Children’s Services (DFCS) and/or Office of

Supportive Housing (OSH) as FUP-eligible.

- Foster Youth to Independence (FYI) Initiative – Youth referred by the Santa Clara County Department of Family and Children’s Services (DFCS) and/or Office of Supportive Housing (OSH) as FYI-eligible.
- Category 2 Non-Elderly Disabled (NED) Program – Non-elderly, disabled families referred by the Silicon Valley Independent Living Center and transitioning out of nursing homes or other health care institutions.

2.5 **REMOVING APPLICANT NAMES FROM THE WAITING LIST**

24 CFR 982.204(c)(1): “The PHA administrative plan must state PHA policy on when applicant names may be removed from the waiting list. The policy may provide that the PHA will remove names of applicants who do not respond to PHA requests for information or updates.”

Policy:

For applicants on a waiting list, the HA will make two attempts to notify applicants of assistance availability. The HA will request an intake eligibility appointment or complete the intake process by mail, if necessary. If the HA schedules an appointment with the waiting list applicant, the applicant may reschedule their appointment once (either the first or final appointment) by calling HA in advance of the appointment. If the HA conducts the intake process by mail, the applicant will be offered two opportunities to complete and submit the intake process by mail. If an applicant fails to respond within the specified timeframe or fails to attend their final appointment, the application will be canceled and withdrawn and the applicant will be notified in writing.

Applicants Registered on the 2006 Waiting Lists: The HA will make one attempt to notify applicants of an offer of a Project Based Voucher or Moderate Rehabilitation unit availability. If the applicant does not respond, or declines the offer, they will be withdrawn from the Project Based Voucher or Moderate Rehabilitation waiting list and notified in writing of the withdrawal.

2.6 **REINSTATEMENT TO THE WAITING LIST**

24 CFR 982.204(c)(2): “If the applicant did not respond to the PHA request for information or updates because of the family member’s disability, the PHA must reinstate the applicant in the family’s former position on the waiting list.”

Policy:

The HA may reevaluate its decision to remove the applicant from the waiting list if the applicant family was unable to respond to the HA’s notices of assistance or declined an

offer of an available Project Based Voucher or Moderate Rehabilitation unit due to:

- Homelessness,
- Hospitalization during the period outreach efforts were made,
- Disability, or
- Other mitigating circumstances, such as domestic violence.

Any of the above circumstances must be verified through independent sources, and applicable mitigating circumstances must be clearly demonstrated prior to evaluation for reinstatement. The HA will provide a written response specifying the outcome and final determination at the conclusion of its review.

If the request for reinstatement is approved, the cancelled application will be restored to its original placement of registration on the waiting list. If the request for reinstatement was not approved, the application remains cancelled.

2.7 **SPECIAL ADMISSIONS (NON-WAITING LIST)**

24 CFR 982.203(a): “(1) If HUD awards a PHA program funding that is targeted for families living in specified units, the PHA must use the assistance for families living in these units. (2) The PHA may admit a family that is not on the PHA waiting list or without considering the family’s waiting list position.”

Policy:

The following are examples of types of program funding that may be targeted for a family living in a specified unit:

- A family displaced because of demolition or disposition of a public housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project subject to a homeownership program (under 24 CFR 238.173);
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project; and

- Very low-income families who have been displaced due to a natural disaster, government, or private actions. If a city or county is involved, a family may be eligible for admission to the program subject to a funding allocation.

2.8 **OTHER HOUSING ASSISTANCE**

24 CFR 982.205(b): “(1) For the purposes of this section, ‘other housing subsidy’ means a housing subsidy other than assistance under the voucher program. Housing subsidy includes subsidy assistance under a federal housing program, a state housing program or a local housing program. (2) The PHA may not take any of the following actions because an applicant has applied for, received or refused other housing assistance:

- (i) Refuse to list the applicant on the PHA waiting list for tenant-based assistance;**
- (ii) Deny any admission preference for which the applicant is currently qualified;**
- (iii) Change the applicant’s place on the waiting list based on preference, date and time of application, or other factors affecting selection under the HA selection policy; or**
- (iv) Remove applicant from the waiting list.”**

24 CFR 983.251(e)(3): “The PHA may not take any of the following actions against an applicant who has applied for, received, or refused an offer of PBV assistance: (iv) Remove the applicant from the waiting list for tenant-based voucher assistance.”

Policy:

Applicants Registered on the 2006 Waiting Lists: If an applicant is withdrawn from the Housing Choice Voucher waiting list (including withdrawals due to being determined ineligible for assistance according to Section 8 initial eligibility criteria in place at the time), or housed under the Housing Choice Voucher program, the HA will remove the applicant from the Mainstream, Project-Based Voucher and Moderate Rehabilitation assistance waiting lists.

Applicants Registered on the 2006 Waiting Lists: If an applicant is determined ineligible for assistance for the Project Based Voucher or Moderate Rehabilitation programs according to Section 8 initial eligibility criteria in place at the time under the Project Based Voucher or Moderate Rehabilitation programs, the HA will withdraw the applicant from the Housing Choice Voucher, Mainstream, Project Based Voucher and Moderate Rehabilitation assistance waiting lists.

Applicants Registered on the 2006 Waiting Lists: If an applicant is housed under the Moderate Rehabilitation program or withdrawn from the Project Based Voucher and/or Moderate Rehabilitation assistance waiting lists due to non-responsiveness to an offer of PBV or Moderate Rehabilitation assistance, the HA will not remove the applicant from the Housing Choice Voucher waiting list.

Applicants Registered on the Interest Lists Opened 2020: If an applicant is housed under the Moderate Rehabilitation programs and is drawn from the interest list for a Housing Choice Voucher and determined eligible for assistance, the HA will offer them the opportunity to move with Housing Choice Voucher assistance.

Applicants Registered on the Interest Lists Opened 2020: If an applicant is drawn from the interest list for a Housing Choice Voucher, the applicant will be inactivated from the Housing Choice Voucher and property voucher interest lists and must reactivate themselves on the interest lists to be considered for additional opportunities.

Applicants Registered on the Interest Lists Opened 2020: If an applicant is drawn from one of the property voucher interest lists, they will not be inactivated from the Housing Choice Voucher interest list; however, they will be inactivated from all property voucher interest lists and must reactivate themselves on the interest lists to be considered for additional opportunities.

If an applicant is housed with a Housing Choice Voucher through the Chronically Homeless Direct referral program, Special Needs Population Direct Referral program, the Family Unification Program, the Non-Elderly Disabled Program, the Veterans Affairs Supportive Housing or the Mainstream Program, the HA will withdraw the applicant from the Housing Choice Voucher, Project Based Voucher, Moderate Rehabilitation or site-based property voucher waiting lists.

If an applicant reaches the top of the 2006 Housing Choice Voucher waiting list or is drawn from the interest list for a Housing Choice Voucher, but is currently housed under the Project Based Voucher program for less than two years (or one year with a VASH Project Based Voucher), the HA will withdraw the applicant from the Housing Choice Voucher waiting list.

If an applicant reaches the top of the 2006 Housing Choice Voucher waiting list or is drawn from the interest list for a Housing Choice Voucher, and is currently housed under the Project Based Voucher program for more than two years (or one year with a VASH Project Based Voucher), the HA will offer them the opportunity to move with Housing Choice Voucher assistance.

CHAPTER 3. ELIGIBILITY FOR ADMISSION

3.0 INTRODUCTION

This chapter defines the HA criteria for admission to the Housing Choice Voucher, Project Based Voucher and Moderate Rehabilitation programs. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

3.1 COMPOSITION OF APPLICANT FAMILIES

24 CFR 5.403 *“Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:*

- (1) ~~1~~ A single person, who may be:
 - (i) ~~a~~ An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
 - (ii) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or
- (2) ~~2~~ A group of persons residing together, and such group includes, but is not limited to:
 - (i) ~~(i)~~ A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (ii) ~~(ii)~~ An elderly family;
 - (iii) ~~(iii)~~ A near-elderly family;
 - (iv) ~~(iv)~~ A disabled family;
 - (v) ~~(v)~~ A displaced family; and
 - (vi) ~~(vi)~~ The remaining member of a tenant family.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) Is determined to be essential to the care and well-being of the persons; (2) Is not obligated for the support of the persons; and (3) Would not be living in the unit except to provide the necessary supportive services.”

24 CFR 982.551(h)(4): “If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child or live-in aide, and defining when PHA consent may be given or denied.”

Policy:

The Head of Household will list all household members at the time of registration on the interest list and update the household composition on the interest list as necessary.

After an applicant has been randomly drawn to a waiting list, the HA will approve any additional family members in the following cases:

- The birth, adoption, or court-awarded custody* of a child to any current family member.
- The addition of a non-biological minor child through designated custody** to a current family member.
- The addition of a minor child by birth or adoption, who has been living elsewhere, to a current family member.

* If the child is subject to a joint physical custody agreement, the agreement must stipulate that they live with the participant family at least 6 months or 50% of the year.

** Designated custody is physical custody granted through notarized, written permission from the parent or legal guardian of the child.

The HA may approve any additional family members in the following cases:

- The addition of a Spouse, Registered Domestic Partner, Boyfriend or Girlfriend of the Head of Household;
- The addition of an elderly person or a person with a disability that is a parent, grandparent or adult child of the Head of Household, Spouse, Registered Domestic Partner, Boyfriend or Girlfriend of the Head of Household;

Household members may be added in the following cases:

- Foster child of the Head of Household, Spouse, Registered Domestic Partner, Boyfriend or Girlfriend of the Head of Household.
- Foster child under the Extended Foster Care Program (EFC) as a Non-Minor Dependent (NMD) up to age 21 of the Head of Household, Spouse, Registered Domestic Partner, Boyfriend or Girlfriend of the Head of Household.
- A live-in aide as an approved reasonable accommodation. The live-in aide must maintain his or her finances separately, may not contribute financially to the family, have the capacity to live independently from the family member and must not have an ownership interest in the family's rental unit.

If the applicant is being selected to fill a Project Based Voucher or Moderate Rehabilitation unit, they may not add additional members to the household composition if it makes the family ineligible for the unit based on the unit size (see Chapter 16 Project-Based Voucher Program, Section 16.10 and Chapter 17 Moderate Rehabilitation Program, Section 17.1).

Applicants Registered on the 2006 Waiting Lists: If the family member listed as Head of Household at the time of waiting list registration is no longer residing with the family at the time of intake eligibility, the HA may transfer Head of Household status to another family member in the following circumstances:

- Death or permanent confinement to a nursing or live-in-care facility of the listed Head of Household;
- Divorce or legal separation;
- If the remaining adult family member retains custody of minors or other dependents.

Applicants Registered on the 2006 Waiting Lists: A registrant who is no longer interested in receiving housing assistance may transfer their registration to a family member who is part of their approved family composition at the time of verification of eligibility but cannot transfer their registration to anyone who is not part of their approved family composition at the time of verification of eligibility.

3.2 JOINT CUSTODY OF DEPENDENTS

24 CFR 982.551(n): “An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative federal, state or local housing assistance program.”

Policy:

A child or children cannot be assisted by more than one federal, state or local housing assistance program. If both parents are assisted, the dependent(s) will be part of the household of first assistance until the HA receives a request to remove the dependent(s) from the household.

3.3 INCOME ELIGIBILITY

24 CFR 982.201(b)(1): “To be income-eligible, the applicant must be a family in any of the following categories:

- (i) A ‘very low income’ family;

- (ii) A low-income family that is continuously assisted under the 1937 Housing Act;
- (iii) A low-income family that meets additional eligibility criteria specified in the PHA administrative plan;
- (iv) A low-income family that qualified for voucher assistance as a non-purchasing family residing in a HOPE 1 or HOPE 2 project;
- (v) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in 248.101 of this title;
- (vi) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 248.173 of this title.”

24 CFR 982.201(d)(2): “The PHA must establish policies concerning whether and to what extent a brief interruption between assistance under one of these programs and admission to the voucher program will be considered to break continuity of assistance under the 1937 Housing Act.”

Policy:

An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of their intake appointment.

If a Project Based Voucher unit (according to the regulatory agreements in place at the property) has income eligibility limits that are more restrictive than the income limits described in 24 CFR 982.201, then the income eligibility level for the unit will prevail.

3.4 ASSET LIMITATION

24 CFR 5.618(a): “Restrictions based on net assets and property ownership.

- (1) A dwelling unit in the public housing program may not be rented, and assistance under the Section 8 (tenant-based and project-based) programs may not be provided, either initially or upon reexamination of family income, to any family if:
 - (i) The family's net assets (as defined in §5.603) exceed \$100,000, which amount will be adjusted annually by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers; or
 - (ii) The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on State or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence, except this real property restriction does not apply to:
 - (A) Any property for which the family is receiving assistance under 24

CFR 982.620; or under the Homeownership Option in 24 CFR part 982;

- (B) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
 - (C) Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as defined in this part 5 (subpart L); or
 - (D) Any family that is offering such property for sale.
- (2) A property will be considered “suitable for occupancy” under paragraph (a)(1)(ii) of this section unless the family demonstrates that it:
- (i) Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
 - (ii) Is not sufficient for the size of the family;
 - (iii) Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
 - (iv) Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
 - (v) Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.”

MTW Plan:

“This activity makes the following families ineligible for SCCHA’s Section 8 program if they have at least one of the following:

- \$100,000 or more in assets per family member; or
- Present ownership interest in a suitable home in which they have a legal right to reside in and effective legal authority to sell [...]

SCCHA is proposing an additional exemption from the asset limitation for residents that are given Public Housing or Section 8 assistance due to other property acquisition, redevelopment, or conversion activities.”

Policy:

MTW participants: Applicants with at least \$100,000 or more in assets per family member, or ownership in property suitable for occupancy, will be ineligible. Assets will be assessed as a whole – for example, the asset limit for a family of four will be \$400,000.

Applicant families being converted to Section 8 assistance due to HA activities such as

property acquisition, redevelopment, or other conversion activities will be exempt from the asset limitation at program admission.

Non-MTW participants: Applicants with at least \$100,000 or more in assets (adjusted annually by HUD for inflation), or ownership in property suitable for occupancy, will be ineligible.

MTW and non-MTW participants: Property located outside of the following neighboring counties will be considered exempt due to geographic hardship: Alameda, Contra Costa, Marin, Merced, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, San Benito, Solano, and Stanislaus.

Properties located within these counties may be considered a geographic hardship on a case-by-case basis, as determined by the HA.

3.43.5 FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

24 CFR 982.201(f): “The HA must give an applicant prompt written notice of a decision denying admission to the program (including a decision that the applicant is not eligible or denying admission for other reasons).”

Policy:

Upon completion of the verification process, the HA will make a final determination of eligibility. This decision is based upon information provided by the family, verification information received by the HA and the current eligibility criteria in effect.

Once a determination of ineligibility is made, any later changes in income or family composition submitted by the family will not be used to re-determine eligibility.

The HA will give an applicant written notice of a decision denying admission to the program within 3 days of the determination of ineligibility. The notice will state the reason for denial, that the applicant may request an informal review of the decision, and how to request the informal review.

If an informal review is requested, the HA will give the applicant a written notice within 30 days of the decision to uphold or overturn the denial and will include the reason(s) for the decision.

CHAPTER 4. FACTORS RELATED TO TOTAL TENANT PAYMENT (TTP) AND FAMILY SHARE DETERMINATION

4.0 INTRODUCTION

This chapter describes policies that may affect the determination of the Total Tenant Payment (TTP) or family share of rent. The policies in this chapter pertain to Moving to Work (MTW) and non-Moving to Work families.

4.1 ALLOWANCES

24 CFR 5.611(a): “In determining adjusted income, the [HA] must deduct the following amounts from annual income:

(1) \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;

(2) \$525 for any elderly family or disabled family, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;

(3) The sum of the following, to the extent the sum exceeds ~~ten~~ **three** percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family to be employed.”

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.”

24 CFR 5.603(b): “*Child care expenses.* Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

MTW Plan:

The HA will implement “a new method of rent calculation, which eliminates all allowances (including utility allowances) and expenses...”

Policy:

MTW participants: The HA will not apply allowances for elderly or disabled families or dependents and for participants’ disability assistance, medical and childcare expenses when determining annual income.

Non-MTW participants:

~~In addition to HUD regulations, the HA will use the following resources to determine allowable medical expenses (including service animals and guide dogs):~~

~~—————Internal Revenue Service Publication 502: Medical and Dental Expenses~~

The HA will review expenses to determine if they are allowable medical expenses under HUD’s definition.

When before- or after-hours child care is provided at a school, the costs associated with the child care is an allowable expense but not the school tuition.

If the childcare is needed to allow a family member to work, the maximum child care expense allowed must be less than the amount earned by the employed family members in the family.

If the childcare is needed to allow a family member to attend school, the number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

Childcare expenses paid to a family member who lives in the family’s unit are not an allowable expense.

If a child care provider provides other services to the family besides child care, the HA will prorate the costs and allow only that portion of the expenses attributable to child care.

4.2 HARDSHIP EXEMPTION FOR MEDICAL/DISABILITY EXPENSE DEDUCTION

There are two types of financial hardship exemptions for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses:

1. Phased-in Relief: 24 CFR 5.611(c)(1): “This paragraph provides financial hardship relief for families affected by the statutory increase in the threshold to receive health and medical care expense and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

(i) Eligibility for relief. To receive hardship relief under this paragraph (c)(1), the family must have received a deduction from annual income because their sum of expenses [...] exceeded 3 percent of annual income as of January 1, 2024.

(ii) Form of relief.

(A) The family will receive a deduction totaling the sum of the expenses [...] that exceed 5 percent of annual income.

(B) Twelve months after the relief [...] is provided, the family must receive a deduction totaling the sum of expenses [...] that exceed 7.5 percent of annual income.

(C) Twenty-four months after the relief [...] is provided, the family must receive a deduction totaling the sum of expenses under paragraph (a)(3) of this section that exceed ten percent of annual income and the only remaining relief that may be available to the family will be paragraph (d)(1) of this section.

2. General Relief: 24 CFR 5.611(c)(2): “This paragraph (c)(2) provides financial relief for an elderly or disabled family or a family that includes a person with disabilities that is experiencing a financial hardship... The family will receive a deduction for the sum of the eligible expenses in paragraph (a)(3) of this section that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, responsible entities may, at their discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.”

Policy:

Non-MTW participants: The following circumstances would qualify a family for general relief:

- The family’s health and medical and/or disability assistance expenses have increased unexpectedly;
- The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
- The family would be evicted because it is unable to pay rent;
- The income of the family has decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances that seriously affect the family’s ability to pay rent.

SCCHA will provide the option to extend the hardship relief for additional 90-day periods. SCCHA will require the family to verify the financial hardship is still applicable before granting each 90-day extension.

4.3 HARDSHIP EXEMPTION FOR CHILD CARE EXPENSE DEDUCTION

24 CFR 5.611(d): *“Exemption to continue child care expense deduction. A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the child care expense deduction under paragraph (a)(4) of this section. The responsible entity must recalculate the family's adjusted income and continue the child care deduction if the family demonstrates to the responsible entity's satisfaction that the family is unable to pay their rent because of loss of the child care expense deduction, and the child care expense is still necessary even though the family member is no longer employed or furthering his or her education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. Responsible entities, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.*

Policy:

Non-MTW participants: A family whose eligibility for the child-care expense deduction is ending may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when:

1. The family no longer has a member that is working, looking for work, or seeking to further their education, and
2. The deduction is necessary because the family is unable to pay their rent.

The following circumstances would qualify a family for the hardship exemption:

- When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
- When the family would be evicted because it is unable to pay rent;
- When the income of the family has decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances that seriously affect the family's ability to pay rent.

SCCHA will provide the option to extend the hardship relief for additional 90-day periods. SCCHA will require the family to verify the financial hardship is still applicable before granting each 90-day extension.

4.24.4 EARNED INCOME DISALLOWANCE

24 CFR 5.617(c)(3): *“Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities...is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance [in the initial twelve month exclusion]...and a maximum of*

twelve months for disallowance [in the second twelve month exclusion and phase-in]....”

24 CFR 5.617: “(e) *Limitation.* This section applies to a family that is receiving the disallowance of earned income under this section on December 31, 2023. (f) *Sunset.* This section will lapse on January 1, 2026.”

~~MTW Plan: The HA “eliminates the HUD-mandated Earned Income Disallowance (EID) calculation.”~~

Policy:

~~MTW participants: The HA will not apply the HUD Earned Income Disallowances for families with disabled participants when determining annual income. Therefore, if the disabled participant becomes employed, his or her income will be calculated into the family’s share of the rent at the next scheduled reexamination.~~

~~Non-MTW participants: The Earned Income Disallowance will be applied in accordance with 24 CFR 5.617 (c).~~ Families receiving EID as of December 31, 2023 will continue to receive the full benefit until the remaining timeframe for an individual family’s EID expires.

4.34.5 UTILITY ALLOWANCES

24 CFR 982.517(a)(1): “The [HA] must maintain a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)).”

MTW Plan: The HA will implement “a new method of rent calculation, which eliminates all allowances (including utility allowances) and expenses...”

Policy:

MTW participants: The HA will not include utility allowances in determining the gross rent of the unit. The gross rent of the unit is the approved contract rent to the owner.

Non-MTW participants: The gross rent of the unit is the sum of the rent to the owner plus any utility allowance.

4.44.6 UTILITY REIMBURSEMENT PAYMENTS

24 CFR 982.514(b): “If the housing assistance payment exceeds the rent to owner, the PHA may pay the balance of the housing assistance payment (‘utility reimbursement’) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.”

Policy:

Non-MTW participants: Where the calculation on the HUD 50058 results in a utility reimbursement payment due to the family, the HA will provide a utility reimbursement payment directly to the family each month.

4.54.7 MINIMUM RENT

24 CFR 5.630(a): “(1) The PHA must charge a family no less than a minimum monthly rent established by the [PHA] [...] (2) For the [...] section 8 moderate rehabilitation or voucher programs, the PHA may establish a minimum rent of up to \$50.”

24 CFR 5.630(b): “*Financial hardship exemption from minimum rent-* (1) *When is family exempt from minimum rent?* The [PHA] must grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship, as described in the [PHA’s] written policies.”

MTW Plan: “The Hardship Exemption policy does not differentiate between a temporary and long-term hardship and does not require SCCHA staff to track and receive repayment from participants.” “The exemption from paying the minimum rent will continue until the family reports a change (increase) in income, at which time the minimum rent will be reinstated.”

Policy:**MTW Participants:**

The HA has established a minimum rent of \$50.00.

Exemptions due to hardship as defined by HUD are allowed, if verified.

Exemptions due to hardship include:

When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;

When the family would be evicted because it is unable to pay the minimum rent;

When the income of the family has decreased because of changed circumstances, including loss of employment;

When a death has occurred in the family; and

Other circumstances that seriously affect the family’s ability to pay the minimum rent.

If the family has income that is partially excluded that, if counted, would raise the family's total tenant payment above the minimum rent, the family will not be eligible for an exemption from the minimum rent.

Exemptions from the minimum rent must be reviewed and approved by the Housing Authority. If an exemption is approved, minimum rent will be suspended beginning the first of the month following receipt of required documentation.

If an exemption from the minimum rent is approved, the family will pay a rent portion based on their actual income (between \$0 and \$49). If the family reports an increase in income, the exemption will be removed, and the minimum rent will be reinstated. The family may request another hardship exemption, if applicable.

Non-MTW Participants:

Moderate Rehabilitation: (See Chapter 17 of the Administrative Plan for the minimum rent policy for the Mod. Rehab. program.)

Enhanced: Enhanced Voucher minimum rent is set in accordance with PIH Notices 2001-41 and 2019-12.

4.64.8 TOTAL TENANT PAYMENT

24 CFR 5.628(a): "Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

- (1) 30 percent of the family's monthly adjusted income;**
- (2) 10 percent of the family's monthly income;**
- (3) 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;**
- (4) The minimum rent, as determined in accordance with § 5.630."**

MTW Plan:

The HA "will simplify the rental assistance calculation by setting the participant's rent portion as (1) a flat 30-35 percent of their household's gross monthly income; or (2) \$50, whichever is higher."

Policy:

MTW participants: Effective June 1, 2022, the Total Tenant Payment (TTP) will be **30% of the participant-family's gross monthly income** or \$50 minimum rent, whichever is higher.

Non-MTW participants: The monthly Total Tenant Payment (TTP) will be set in accordance with 24 CFR 5.628 (a).

HUD HCV Guidebook p. 11-6:

“...the PHA does not make housing assistance payments when the following occurs:

- **Thirty percent of the family's monthly adjusted income equals or exceeds the payment standard; or**
- **The family share equals or exceeds the gross rent.”**

Policy:

The HA will not enter into a Housing Assistance Payment (HAP) contract when the tenant rent portion pays for all of the approved contract rent (no HAP is being paid).

4.74.9 ABSENCE OF FAMILY MEMBERS

24 CFR 982.312(e): “The PHA administrative plan must state the PHA policies on family absence from the dwelling unit.”

Policy:

A family member is considered temporarily absent from the unit if they are out of the unit less than 90 days.

A family member is considered permanently absent from the unit if they are out of the unit 90 days or more.

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses will be considered either temporarily or permanently absent based on the family's request.

A family member who is out of the home due to active military duty will be considered either temporarily or permanently absent based on the family's request.

CHAPTER 5. VERIFICATION OF FACTORS AFFECTING ELIGIBILITY DETERMINATIONS AND REEXAMINATIONS

5.0 INTRODUCTION

Factors that affect the determination of eligibility and adjusted income for applicants and participants will be verified by the Housing Authority (HA). This chapter outlines the HA's policies pertaining to verification of factors affecting a family's eligibility and reexaminations of income and family composition.

5.1 HIERARCHY OF VERIFICATION

24 CFR 982.516(a)(2): "The PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available:

- (i) Reported family annual income
- (ii) The value of assets
- (iii) Expenses related to deductions from annual income
- (iv) Other factors that affect the determination of adjusted income."

PIH Notice 2023-27: "Upfront Income Verification (UIV) (Level 6/5): The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs/MFH Owners as a UIV technique and that all PHAs/MFH Owners are required to use EIV in its entirety [...] PHAs/MFH Owners are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to verify tenant-reported income.

Written, Third-Party Verification (Level 4): An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA/MFH Owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs/MFH Owners may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Written, Third-Party Verification Form (Level 3): The PHA/MFH Owner may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

Oral Third-Party Verification (Level 2): The PHA/MFH Owner may skip this level of

verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

Non-Third-Party Verification Technique: Self-Certification (Level 1): The tenant submits a signed statement of reported income and/or expenses to the PHA/MFH Owner. This verification method should be used as a last resort when the PHA/MFH Owner has not been successful in obtaining information via all other required verification techniques. When the PHA/MFH Owner relies on self-certification to verify income or expenses, the PHA/MFH Owner must document in the tenant file why third-party verification was not available.”

~~PIH Notice 2010-19: “Written Third Party Verification (Level 4): An original or authentic document generated by a third party source dated either within the 60 day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant provided documents. It is the Department’s position that such tenant provided documents are written third party verification since these documents originated from a third party source. The PHA may, at its discretion, reject any tenant provided documents and follow up directly with the source to obtain necessary verification of information.~~

- ~~(i) Upfront Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system~~
- ~~(ii) Upfront Income Verification (UIV) using non HUD system~~
- ~~(iii) Written Third Party Verification~~
- ~~(iv) Written Third Party Verification Form~~
- ~~(v) Oral Third Party Verification~~
- ~~(vi) Tenant Declaration”~~

Policy:

The HA will obtain and document in the file verification of the family’s reported annual income and the value of assets using the following hierarchy:

- Up-front Income Verification (UIV), including HUD’s Enterprise Income Verification
- Family-provided documentation
- Written third-party verification forms*
- Oral third-party verification
- Tenant declaration

*The HA may continue to use third-party verification to resolve income discrepancies or in the absence of other verification or participant provided documents.

Non MTW Policy:

The HA will use the same verification hierarchy as above to obtain and document expenses

related to deductions from annual income and other factors that affect the determination of adjusted income.

5.2 INCOME FROM ASSETS

24 CFR 5.609(ab): “Annual income includes, with respect to the family:

- (1) All amounts not specifically excluded in paragraph (b) received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- (2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.”

~~but is not limited to: (3) Interest, dividends, and other net income of any kind from real or personal property... Where the family has net assets in excess of \$5,000, annual income shall include the greater of actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.”~~

MTW 2010 Activity:

~~HACSC-SCCHA~~ will “eliminate calculating and including income received from family assets under \$50,000.”

Policy:

MTW applicants and participants: If a family’s total assets amount to less than \$50,000, the HA will not report family assets to HUD or calculate anticipated asset income to include in family’s total annual income.

Non-MTW applicants and participants: The HA will calculate and include asset income derived from all family assets in compliance with 24 CFR 5.609 ~~(b) (3)~~.

5.3 INCOME EXCLUSIONS

24 CFR 908.101: “The purpose of this part is to require Public Housing Agencies (PHAs), including Moving-to-Work (MTW) PHAs, that operate Public Housing, Indian Housing, or Section 8 Rental Certificate, Housing Choice Voucher (HCV), Rental Voucher, and Moderate Rehabilitation programs to electronically submit certain data to HUD for those programs. These electronically submitted data are required for HUD forms: HUD-50058, including the Family Self-Sufficiency (FSS) Addendum.”

PIH Notice 2023-27: **“Verification of Excluded Income:** [...] For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA/MFH Owner is not required to:

- Verify the income using third-party verification;
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058/ HUD-50059.”

PIH Notice 2013-04 (HA)

Partial Income Exclusions:

Fully Excluded Income:

~~“Income that is fully excluded means the entire amount qualified to be excluded from the annual income determination. For fully excluded income, the PHA is not required to:~~

- ~~• Verify the income in accordance with the HUD-prescribed verification hierarchy;~~
- ~~• Document in the tenant file why third party verification was not available as required by 24 CFR 960.259(c) and 24 CFR 982.516(a)(2); and~~
- ~~• Report the income in Section 7 of the form HUD-50058.~~

~~PHAs may accept an applicant or participant’s self-certification as verification of fully excluded income. The PHA’s application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. PHAs have the option of elevating the verification requirements if necessary, to determine if a source of income qualifies for a full exclusion.”~~

24 CFR 5.609(b)(14): “Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611” is excluded from annual income.

24 CFR 5.609(b)(15): “Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611” is excluded from annual income.

24 CFR 5.609(b)(9): “(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and (ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing

in an assisted unit.”

PIH Notice 20237-27: “For any funds from a year where HUD’s appropriations include this Section 8 student financial assistance limitation, if the student is the head of household, co-head, or spouse and is under the age of 23 or without dependent children, then both the assistance received under 479B of the HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges.”

PIH Notice 2023-27: For income from pilot guaranteed income programs, “This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income.”

MTW Plan: SCCHA will fully exclude income from:

1. Guaranteed basic income pilot programs with a defined start and end date
2. Student financial assistance
3. Full-time student earned income
4. Adoption assistance payments

Policy:

The HA will not verify, count or report income that is 100% excluded from the income calculation process on Form HUD-50058-~~MTW~~.

MTW participants: SCCHA will fully exclude income from these sources:

1. Guaranteed basic income pilot programs with a defined start and end date
2. Student financial assistance
3. Full-time student earned income
4. Adoption assistance payments

Non-MTW participants: For these partially excluded income sources, SCCHA will follow HUD regulations to verify, count and report income.

5.4 AGE OF APPLICANT VERIFICATION

24 CFR 982.201 (e): “The PHA must receive information verifying that an applicant is eligible within the period of 60 days before the PHA issues a voucher to the applicant.”

MTW Plan:

The HA will increase the “documentation submission window from 60 to 120 days” prior

to initial subsidy issuance.

Policy:

MTW applicants: Information verifying that an applicant is eligible must be no older than 120 days from initial subsidy issuance.

Non-MTW applicants: Information verifying that an applicant is eligible must be no older than 60 days from subsidy issuance for families receiving special purpose vouchers.

5.5 AGE OF PARTICIPANT VERIFICATION

PIH Notice 2023-27: “Written Third Party Verification (Level 4): An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA/MFH Owner.”~~PIH Notice 2004-01, Page 10: “In support of the tenant’s declaration of income, the PHA may review original documents provided by the participant. All documents should be dated within the last 60 days of the interview.”~~

Policy:

~~MTW participants:~~ Verification obtained at reexamination will be no more than ~~60~~120 days old at the date of receipt of the documentation. However, if the documentation is issued quarterly, semi-annually or annually, the documentation must be the most recent issued by the verification source.

~~Non-MTW participants:~~ Verification obtained at reexamination will be no more than 60 days old at the date of receipt of the documentation.

5.6 NONRECURRING INCOME ~~TEMPORARY, NON-RECURRING OR SPORADIC INCOME~~

~~24 CFR 5.609: “Annual income. (a) Annual income means all amounts, monetary or not, which ... (2) Are 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 (b) (7): “Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.”~~

~~24 CFR 5.609 (c): “Annual income does not include the following: ... (9) Temporary, nonrecurring or sporadic income (including gifts).” Sporadic income is income that is not received periodically and cannot be reliably predicted.~~

24 CFR 5.609(b): “Annual income does not include the following: [...] (24): Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or

seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.”

PIH Notice 2023-27: “Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income.

Income that has a discrete end date and will not be repeated beyond the coming year during the family’s upcoming annual reexamination period will be excluded from a family’s annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.”

Policy:

~~The HA defines sporadic, non-recurring or temporary income as income lasting no longer than 90 cumulative days within a one-year period.~~

~~The HA considers income received through a Guaranteed Income pilot program as temporary and such income will be excluded from annual income.~~

Loans with legally binding, documented terms and conditions for repayment, signed by the borrower and lender will not be considered income and will not be included in the family’s total annual income. Money received through an undocumented personal loan will be included in the family’s total annual income.

5.7 VERIFICATION OF ELIGIBLE IMMIGRATION STATUS

24 CFR 5.508(b)(1) and (3): “Evidence of citizenship or eligible immigration status. Each family member, regardless of age, must submit the following evidence to the responsible entity:

- Signed declaration of U.S. citizenship or U.S. nationality.

For all other non-citizens, the evidence consists of a signed declaration of eligible immigration status, one of the INS documents referred to in 5.510, and a signed verification consent form.

24 CFR 5.508(e): “If one or more members of a family elect not to contend that they have eligible immigration status, and other members establish their citizenship or eligible immigration status, the family may be eligible for assistance. The family, however, must identify in writing the family member (or members) who will elect not to contend that he or she has eligible immigration status.”

Policy:

Housing assistance to applicants will be delayed while immigration status verification is pending.

5.8 **VERIFICATION OF SOCIAL SECURITY NUMBER (SSN)**

PIH Notice 2023-27: “HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA/MFH Owner has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

If the tenant’s SSN becomes verified in EIV, then no further verification is required. If the tenant’s SSN fails the SSA identity match, then the PHA/MFH Owner must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant’s assistance must be terminated if they fail to provide the required documentation.”

Policy:

HA will accept self-certification of SSN along with third-party documentation of the individual’s name, if other SSN documentation is not available.

CHAPTER 6. VOUCHER ISSUANCE AND BRIEFINGS

6.0 INTRODUCTION

This chapter describes Housing Authority policies when a family is issued a voucher. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

6.1 TERM OF VOUCHER

24 CFR 982.303(a): “Initial term. The initial term of a voucher must be at least 60 calendar days.”

Policy:

The initial term of a voucher—the period of time during which the voucher is valid and the family may search for a unit to lease—is 120 calendar days from the date of issuance.

6.2 VOUCHER EXTENSIONS

24 CFR 982.303(b)(1): “At its discretion the PHA may grant a family one or more extension of the initial voucher term in accordance with PHA policy as described in the PHA administrative plan. Any extension of the term is granted by PHA notice to the family.”

Policy:

A family may submit a verbal or written request to be considered for an initial extension of its voucher.

All requests for extensions must be received by the HA prior to the expiration date of the voucher.

Upon receipt of extension request, the caseworker will extend the voucher an additional 60 days from the date of caseworker approval or 60 days from the voucher expiration date, whichever is later.

A final extension of 60 days (beyond the first 60-day extension) must be submitted in writing and may be granted if it is determined that the family is experiencing extenuating circumstances that affect the family’s ability to find a unit, such as:

- Serious illness in the family;
- Death in the family;
- Family emergency;
- Loss of a job;

- Birth of a child;
- Other special requirements that make finding a unit difficult. (example: unit size, wheelchair access)

If there are documented extenuating circumstances, the caseworker will extend the voucher an additional 60 days from the date of caseworker approval or 60 days from the voucher expiration date, whichever is later. No further extensions will be granted.

An informal review or hearing will not be provided for extension denials.

If the voucher has expired and has not been extended by the HA, or the voucher has expired after an extension, the family's assistance will be denied or terminated.

6.3 SUSPENSION OF VOUCHER TERM

24 CFR 982.303(c): "The PHA policy may or may not provide suspension of the initial or any extended term of the voucher. At its discretion, and in accordance with PHA policy as described in the PHA administrative plan, the PHA may grant a family a suspension of the voucher term if the family has submitted a request for approval of the tenancy during the term of the voucher."

Policy:

If a family submits a Request for Tenancy Approval (RFTA) during the term of the voucher, the HA will suspend the voucher term. If the RFTA is subsequently disapproved, the days remaining on the voucher at the time the RFTA was submitted will be applied to the voucher term after the RFTA is disapproved.

6.4 DETERMINING FAMILY SUBSIDY SIZE

24 CFR 982.402(a)(2): "For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards (family unit size)."

MTW Plan: "...if a household's voucher size changes due to a change in the agency's subsidy standard policy, the new voucher size would not take effect for households in a unit under a Housing Assistance Payment (HAP) contract until (1) the family moves; or (2) the rental market vacancy rate remains 5 percent or higher for at least six months, whichever occurs first." "If vacancy rates rise to 5 percent or higher for two quarters (six months) in a row, HACSC will provide a generous minimum notice period to the family before applying the reduced voucher size in the rent calculation."

Policy:

The below subsidy standards are intended to maximize the Housing Authority's use of

vouchers and to provide guidance in determining the number of bedrooms needed to house assisted families without overcrowding, and is not intended to assign bedrooms or otherwise establish where any family member should sleep within the home.

- The HA provides one bedroom for every two persons.
- A live-in aide will be provided a separate bedroom from other household members.
- The family of a live-in aide will not be provided any additional bedrooms.
- Single person families shall be allocated one bedroom.
- Space may be provided for a student who is away at school but who lives with the family during school recesses.
- Space may be provided for a family member who will be absent from the unit due to active military service.
- Space will be provided for a child in foster care (including a non-minor dependent under the Extended Foster Care Program), unless it has been verified that the child has been removed from the home permanently.
- Space will be provided for a foster child (or a non-minor dependent under the Extended Foster Care Program) five years or older who cannot share a room with a child of the opposite sex or for a foster child two years or older who cannot share a room with an adult when there is no other room available to meet the legal requirements.

When considering an adjustment to the subsidy size for a reasonable accommodation request for an extra bedroom or a bedroom separate from other household members, SCCHA will not consider the living room as a bedroom.

6.5 **BRIEFING**

24 CFR 982.301(a)(1): “When the PHA selects a family to participate in a tenant-based program, the PHA must give the family an oral briefing. The briefing must include information on the following subjects:

- (i) A description of how the program works;**
- (ii) Family and owner responsibilities; and**
- (iii) Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction.”**

Policy:

Applicants who are eligible for assistance are required to attend a briefing.

Applicants who fail to attend a briefing after two scheduled attempts may be denied admission to the program.

Participants who are moving under portability to SCCHA’s jurisdiction are required to attend a briefing.

Participants who are moving with continued tenant-based assistance are not required to attend a briefing.

6.6 **FAMILY BREAK UP - RETENTION OF VOUCHER**

24 CFR 982.315(a)(1): “The PHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up.”

Policy:

The following factors will be considered in the decision-making process when determining which of the family members will continue to be assisted:

- Which of the two new family units have custody of dependent children;
- Which family member was the HOH when the voucher was initially issued (listed on the initial application);
- Which family unit contains elderly or disabled members, and the composition of the new family units;
- Whether domestic violence was involved in the break up;
- Which family members remain in the unit;
- The recommendations of social service professionals;
- Court-awarded determination of who will receive the voucher.

To be considered a remaining member of the family, the person must have been previously approved by the HA.

A live-in aide, foster child and foster adult, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court must have awarded emancipated minor status; or
- The HA must have received verification from Social Services and/or the Dependency Court verifying that another adult is to move into the assisted unit to care for any minor children for an indefinite period of time.

CHAPTER 7. REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

7.0 INTRODUCTION

This chapter describes the policies pertaining to Requests for Tenancy Approval (RFTA), lease requirements, ineligible types of housing, owner disapproval, and execution of the Housing Assistance Payment (HAP) Contract. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

7.1 OWNER OUTREACH

24 CFR 982.54(d): “The PHA administrative plan must cover PHA policies on these subjects: ... (5) Encouraging participation by owners of suitable units located outside areas of low income or minority concentration.”

Policy:

The HA defines low income concentration as areas with 10% or more households below the poverty line.

The HA will recruit and encourage the participation of property owners with property located outside areas of low income concentration and will apply for exception payment standards if the HA determines it is necessary to make the program more accessible in the HA’s jurisdiction.

The HA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of this activity is to provide more choices and better housing opportunities to families.

Voucher holders are informed of a broad range of areas where they may lease units inside the HA’s jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of low income concentration.

Appendix A: (High Poverty Census Tracts) lists census tracts that are 10% or more below the poverty line.

In addition, the HA will:

- Actively recruit and encourage the participation of property owners with property that is accessible to persons with disabilities.
- Conduct periodic meetings with participating owners to improve owner relations

and recruit new owners.

- Maintain a list of units available for Section 8 voucher holders and update this list at least weekly.
- Furnish a list of HUD properties available for rent.
- Develop working relationships with owners and real estate broker associations.
- Establish contact with civic, charitable, or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displaced families.
- Explain the program, including equal opportunity requirements and nondiscrimination requirements such as the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

7.2 REQUEST FOR APPROVAL OF TENANCY

24 CFR 982.302(b): “If the family finds a unit, and the owner is willing to lease the unit under the program, the family may request PHA approval of the tenancy. The PHA has the discretion whether to permit the family to submit more than one request at a time.”

Policy:

The HA will only issue one RFTA to a family at a time.

7.3 SPECIAL HOUSING TYPES

24 CFR 982.601(b)(1): “The PHA may permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home when the family owns the home and leases the manufactured home space, cooperative housing or homeownership option.”

Policy:

The HA will allow the following special housing types within its tenant-based Housing Choice Voucher program:

- Single room occupancy (SRO)
- Shared housing

The HA will allow the following special housing types within its tenant-based Veterans Affairs Supportive Housing (HUD-VASH) program:

- Single room occupancy (SRO)

- Shared housing
- Group home
- Congregate housing
- Cooperative housing

7.4 TENANT SCREENING FOR SUITABILITY

24 CFR 982.307(a)(1): “PHA option and owner responsibility. The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy. The PHA must conduct any such screening of applicants in accordance with policies stated in the PHA Administrative Plan.”

Policy:

The HA will conduct screening of applicants related to:

- Status as a registered Sex Offender; and
- Drug-related criminal activity or other criminal activity, if self-declared by the applicant.

The HA will not provide any other screening for family behavior or suitability for tenancy.

At or before HA approval of the tenancy, the HA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

7.5 INFORMATION TO OWNERS

24 CFR 982.307(b)(1): “The PHA must give the owner: (i) The family’s current and prior address (as shown in the PHA records); and (ii) The name and address (if known to the PHA) of the landlord at the family’s current and prior address.”

24 CFR 982.307(b)(3): “The PHA must give the family a statement of the PHA policy on providing information to owners.”

Policy:

The HA will provide prospective owners with the family’s current and prior address (as shown in the HA records) and the name and address (if known to the HA) of the landlord at the family’s current and prior address.

No other information on a family will be provided to prospective owners.

A statement of the HA’s policy on release of information to prospective landlords will be included in the family’s briefing packet.

7.6 MAXIMUM FAMILY SHARE AT INITIAL OCCUPANCY

24 CFR 982.508: “At the time the PHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40 percent of the family's adjusted monthly income.”

7.7 CHANGE OF OWNERSHIP

HUD-52641(14)(a): “The owner may not assign the HAP contract to a new owner without prior written consent of the PHA.”

Policy:

The HA must receive a written request from the existing owner stating the name and address of the new owner and/or HAP payee and the effective date of the assignment.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide any requested documents, the HA will terminate the HAP contract with the old owner.

7.8 DISAPPROVAL OF OWNER

24 CFR 982.306(c): “In its administrative discretion, the PHA may deny approval to lease a unit for an owner for any of the following reasons:

(1) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (U.S.C. 143f);

(2) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

(3) The owner has engaged in any drug-related criminal activity....”

Policy:

Before denying approval to lease a unit for an owner, the HA will review and consider all relevant factors including the owner’s record of compliance, the seriousness of the violations, and the number of violations.

CHAPTER 8. HOUSING QUALITY STANDARDS (HQS)

8.0 INTRODUCTION

The primary goal of the Housing Choice Voucher program is to provide “decent, safe and sanitary” housing to low-income families. To accomplish this, all units must be inspected and meet the HQS performance and acceptability standards as outlined in this chapter.

8.1 INITIAL UNIT INSPECTIONS

24 CFR 982.405(a): The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least biennially during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS.

Policy:

The owner must repair any Housing Quality Standards (HQS) deficiencies noted at the initial inspection of a unit within ten (10) days from the date of the inspection. Failure to do so may result in the cancellation of the Request for Tenancy Approval.

If a unit passes the initial HQS inspection, the passed inspection will be valid as long it is dated within 120 days of the receipt date of a new Request for Tenancy Approval (RFTA) and the unit has been vacant during the period between the passed inspection and the receipt of the RFTA.

8.2 PERIODIC UNIT INSPECTIONS

24 CFR 982.405(a): “The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least biennially during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS.”

MTW Plan: “The inspections of these units will...be delayed for an additional twelve months.” “This activity would change the {inspection} cycle to a triennial basis for all MTW participants.” (Expires 6/30/2021 or six months after the shelter in place rule is lifted, whichever comes later.)

Policy:

The HA will inspect all leased units biennially. The HA will notify the family at least ten days in advance of a biennial unit inspection appointment (that is not a recheck inspection).

If the family fails to allow unit access for the appointment or no adult (aged 18 or over) is present, a second and final inspection will be scheduled. The family can request a reschedule of their inspection once (either the first or final appointment) at least three days in advance of the

appointment.

If the HA is unable to complete the inspection at the final appointment, or if the appointment notice is returned by the post office with no forwarding address, the HA will begin the process to terminate the housing assistance.

8.3 **SPECIAL INSPECTIONS**

24 CFR 982.405(g): “If a participant family or government official reports a condition that is life threatening condition, which the owner would be required to repair within 24 hours, then the PHA must inspect the housing unit within 24 hours of when the PHA received the notification. If the reported condition is not life-threatening, then the PHA must inspect the unit within 15 days of when the PHA received the notification. In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or 15-day inspection requirement until such time as an inspection is feasible.”

24 CFR 982.405(b): “The PHA must conduct supervisory quality control HQS inspections.”

Policy:

A special inspection may be requested by the owner or the tenant when there has not been a timely or sufficient response to either tenant or owner-caused HQS violation.

A full HQS Inspection will occur anytime a Special Inspection is required.

8.4 **INSPECTIONS OF EXTRA BEDROOMS FOR MEDICAL EQUIPMENT**

NOTICE: PIH 2014-25 (HA): “Although PHAs may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by the PHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the PHA must reduce the subsidy standard and corresponding payment standard at the family’s next annual recertification.”

Policy:

The HA will conduct annual special inspections of units with approved reasonable accommodations for a separate bedroom for medical equipment. The inspection will verify the additional bedroom is being used for medical equipment. If the additional bedroom is not being used for medical equipment the subsidy size will be reduced.

If the subsidy needs to be reduced, see Administrative Plan Chapter 10.4, Change in Family Subsidy/Voucher Size Between Reexaminations, for when the change will be effective.

Special Inspections will include a full HQS Inspection, in accordance with sections 8.7 and 8.8 of this chapter.

8.5 INSPECTION OF HA OWNED UNITS

24 CFR 982.352(1)(iv)(A): “The HA must obtain the services of an independent entity to perform the following HA functions as required under the program rule:

- (1) To determine rent reasonableness.**
- (2) To assist the family to negotiate the rent to the owner.**
- (3) To inspect the unit for compliance with the HQS.”**

MTW Plan: The HA has waived “the HUD requirement that independent entities perform various tasks on behalf of Public Housing Authorities (PHAs) when Section 8 subsidies are attached to PHA-owned properties. SCCHA [has] waivers from the following tasks:

- Establishing contract rents (initial rent to owner and redetermined rent to owner);**
- Establishing term of initial and any renewal HAP contract;**
- Determining rent reasonableness; and,**
- Assisting the family in negotiating the rent with the owner.”**

8.6 HOUSING QUALITY STANDARDS

HUD’s performance and acceptability criteria for Housing Choice Voucher assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities**
- Food preparation and refuse disposal**
- Space and security**
- Thermal environment**
- Illumination and electricity**
- Structure and materials**
- Interior air quality**
- Water supply**
- Lead-based paint**
- Access**
- Site and neighborhood**
- Sanitary condition**
- Smoke detectors**

Additional guidance on these requirements is found in the following HUD resources:

- 24 CFR 982.401, Housing Quality Standards (HQS)**
- 24 CFR 982.605, Single Room Occupancy: HQS**
- 24 CFR 982.609, Congregate Housing: HQS**

- **24 CFR 982.614, Group Home: HQS**
- **24 CFR982.618, Shared Housing: HQS**
- **24 CFR 982.619, Cooperative Housing: HQS**
- **Housing Choice Voucher Guidebook, 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)**

Policy:

In addition to meeting HQS performance and acceptability standards, the unit must also meet the following specific HQS requirements adopted by the HA:

- Doors cannot have double-key dead bolt locks.
- 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.
- A working Carbon Monoxide monitor, if applicable.

8.7 INSPECTING UNITS FOR HOUSING QUALITY STANDARDS

24 CFR 982.404 (a) (3): “The PHA must not make any housing payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA- approved extension).”

Policy:

Owners of units leased under the HA’s programs may self-certify the correction of non-life threatening HQS deficiencies that are the owner’s responsibility to repair. Life threatening deficiencies will require an inspection to verify the correction.

HQS Deficiencies—When an inspection identifies HQS deficiencies, the HA will determine:

1. Whether or not the deficiency is a life-threatening condition; and
2. Whether the family or owner is responsible.

The following are considered life-threatening deficiencies:

1. Gas leak;
2. Exposed/arcing electrical;
3. Structural damage: collapsed walls, floors, ceiling;
4. Exposed broken glass;

5. No operable smoke detectors on a floor/level of the unit (there must be at least one operable smoke detector per floor/level of the unit);
6. Lack of a functioning flush toilet in a one-bathroom unit;
7. Lack of security of the unit;
8. Plumbing leaks or flooding;
9. Lack of permanent functioning heating equipment if inspection occurs during the months of November—March;
10. No water, gas or electric service.

Extensions—Extensions for correcting non-life-threatening HQS deficiencies will be granted in cases where the HA determines that the owner or family has made a good faith effort to correct the deficiencies and is unable to do so for reasons beyond their 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 or natural disasters.
- A reasonable accommodation is needed because the family includes a person with disabilities.

A unit may be considered uninhabitable if the unit has been damaged by fire, earthquake or other natural disasters. The unit is also considered uninhabitable if a government agency, utility agency or a third-party professional working in a field with the expertise to determine a unit’s habitability has inspected and found the unit to be uninhabitable. If a unit is determined uninhabitable, the contract will be terminated on the date the agency or utility company deemed the unit uninhabitable.

8.8 FAMILY OBLIGATION UNDER HQS

24 CFR 982.404(b)(1) & (3): “The family is responsible for a breach of the HQS that is caused by any of the following:

- (i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;**
- (ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or**
- (iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).**

If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with 982.552.”

Policy:

If a family is responsible for an HQS deficiency and fails to make the repair by the repair deadline (24 hours if the defect is life-threatening and 30 calendar days if the defect is not life-threatening) the HA will begin the process to terminate housing assistance.

8.9 HOUSING ASSISTANCE PAYMENT CONTRACT ABATEMENT AND/OR TERMINATION

24 CFR 982.404(a)(2): “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. PHA remedies for such breach of the HQS include termination, suspension, or reduction of housing assistance payments and termination of the HAP contract.”

Policy:

If an owner fails to correct an HQS deficiency by the repair deadline, the HA will:

- Abate payment to the property owner beginning the first of the month following the expiration of the repair deadline;
- Advise the family to issue an Intent to Vacate to the owner;
- Terminate the HAP Contract on the last day of the third month of abatement

The HQS deficiency can be corrected any time before the HAP Contract is terminated. The owner will begin receiving Housing Assistance Payments once the corrections are verified (payments withheld during the time the unit was deficient will not be paid.)

If the owner corrects HQS deficiencies prior to the family moving out of the unit, then the family may choose to remain in the unit if the owner and family both agree to cancel the family’s Intent to Vacate.

8.10 HQS SPACE STANDARDS

24 CFR 982.401(d)(2)(ii): “The dwelling unit must have at least one bedroom living/sleeping room for each two persons.”

24 CFR 982.605(b)(2)(ii)(A): “No more than one person may reside in an SRO unit.”

24 CFR 982.402(d)(1): “The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit size. However, the dwelling unit must meet the applicable HQS space requirements.”

Policy:

The HA’s guidelines for the unit size selected is as follows:

<u>Unit Size</u>	<u>Maximum Number in the Household</u>
SRO	1 Person

Studio	2 Persons
One Bedroom	4 Persons
Two Bedrooms	6 Persons
Three Bedrooms	8 Persons
Four Bedrooms	10 Persons
Five Bedrooms	12 Persons
Six Bedrooms	14 Persons

CHAPTER 9. OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

9.0 INTRODUCTION

This chapter describes the HA's policies regarding the determination of rent reasonableness, payments to owners, and adjustments to the Payment Standard. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

9.1 RENT REASONABLENESS DETERMINATIONS

24 CFR 982.507(b): "The PHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider:

- (1) The location, quality, size, unit type, and age of the contract unit; and**
- (2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease."**

MTW Plan:

The HA "will eliminate the HUD requirement to re-determine the rent reasonableness of affected units within 60 days of the contract anniversary date when HUD reduces FMRs by 10% or more."

Policy:

The HA will use an internet-based rent reasonability database provided by a third-party vendor to:

- Establish and document the rent reasonableness determination, and
- Generate and maintain a database of market-based comparable units.

The database uses an automated valuation model to identify and compare the program unit to the most similar private market rental property units within a specific geographic radius, drawing on a database of non-subsidized comparables and current property listings.

The database uses eight comparability factors: location, size, type, quality, and any amenities, housing services, maintenance, and utilities provided by the owner. The rent reasonableness system will make automatic adjustments to comparable units based on variations between the subject unit and the comparable unit.

When the rent reasonableness for a single-room occupancy (SRO) unit cannot be determined due to insufficient comparable units available in the rent reasonability database, the HA will use 0.75 times the reasonable rent for a comparable studio unit to determine the reasonable rent of an SRO unit.

9.2 MANUFACTURED HOME RENT REASONABLENESS DETERMINATIONS

24 CFR 982.622(b)(2): “The PHA may not approve a lease for a manufactured home space until the PHA determines that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the PHA must re-determine that the current rent to owner is a reasonable rent.”

MTW Plan:

The HA will “eliminate the HUD requirement that a PHA must annually re-determine that the current rent to owner is reasonable for a manufactured home space.”

Policy:

SCCHA will determine rent reasonableness at move-in and following any rent adjustment request. SCCHA will perform manufactured home space rent reasonableness determinations in the same manner as it does for other housing types in the HCV program.

9.3 MAKING PAYMENTS TO OWNERS

24 CFR 982.311(a): “*Payments under HAP contract.* Housing assistance payments are paid to the owner in accordance with the terms of the HAP contract.”

Policy:

Under special circumstances and with prior approval, checks may be made available for owners to pick up in person at the HA with proper identification.

Checks that are not received will not be replaced until the payee has made a request and a stop payment has been placed on the check.

9.4 PAYMENT STANDARDS

24 CFR 982.503(b)(1)(i): “The PHA may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that unit size.”

PIH Notice 2013-18: “The HUD Field Office Public Housing Director can approve exception payment standards above 110 percent to 120 percent of the FMR as a

reasonable accommodation in accordance with 24 CFR 982.503 (c)(2)(ii). Only HUD Headquarters may waive 24 CFR 982.505 (d) to allow the PHA to approve any exception payment standards higher than 120 percent of the FMR as a reasonable accommodation.”

MTW Plan:

The HA will “forego the final step (HUD approval)” and “make the final determination whether to approve any documented and reasonable exception payment standard.”

The HA will “give its Board of Commissioners authority to approve a county-wide payment standard of up to 130 percent of the FMR without prior HUD approval.”

Policy:

The HA will review payment standards annually, after it receives notification of its annual HCV budget authority. If there is a 10% or more difference between payment standards and current average open market rents for any bedroom size, staff will prepare a cost analysis with options to revise the payment standard, with a goal of maintaining 95% funding utilization.

The Executive Director may approve payment standards up to 110% of the FMR. The Board of Commissioners must approve payment standards above 110% up to 130% of FMRs.

The HA may additionally consider the following factors in establishing the payment standards:

- Financial Impact
- Rent burden of participating families
- Quality of units selected
- Changes in rent to owner
- Unit availability
- Expanding housing opportunity

MTW Participants: The HA will review and approve reasonable accommodation requests for an exception payment standard exception.

Non-MTW participants: Requests for an exception payment standard above 110% of the FMR will be reviewed and approved by HUD in accordance with PIH Notice 2013-18.

9.5 RENT ADJUSTMENTS

24 CFR 982.308(g)(4): “The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and any such changes shall be subject to rent reasonableness requirements.”

MTW Plan:

The HA will “impose a freeze on any owner requests to increase their contract rents for a one year period [...and] the decision on whether and when to implement any future freezes would be subject to the HA’s Board of Commissioners’ consideration and approval.”

In response to an owner-requested rent adjustment, the HA will not reduce the contract rent except when “the HUD-issued Fair Market Rents for the applicable bedroom size have dropped by 10% or more since the unit’s last rent reasonableness review.”

Policy:

The HA will not accept rent adjustment requests more than 4 months prior to the requested effective date.

The HA will not approve more than one contract rent increase per contracted unit within a 12-month period from the date of the last contract rent increase.

MTW Participants: The HA will not reduce the contract rent without the owner’s written request to do so, unless the Fair Market Rent has dropped by 10% or more since the last rent adjustment. Applies to: HCV, PBV, FUP, FYI, NED, Mainstream, TPV, Enhanced, VASH and EHV vouchers.

Non-MTW Participants: When processing an owner-requested rent adjustment, the HA will reduce the contract rent if the rent reasonableness determination supports a lower rent amount (see Section 9.1 above). Applies only to Moderate Rehabilitation vouchers.

9.6 LOYALTY PAYMENTS

24 CFR 982.311(d)(1): “If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out.”

MTW Plan:

The HA will provide loyalty payments, “to HCV program owners who re-rent their unit to an HCV participant, each time the unit is re-rented to an HCV participant. The amount

will be set between \$500 and \$1500.”

Policy:

MTW Participants (applies to CHDR, HCV, FUP, FYI, Mainstream, NED, SNDR, TPV and VASH tenant-based vouchers): Payments in the amount of \$1,500, will be made to participating owners who re-lease a vacant unit to an HCV tenant-based voucher participant if:

- The unit was previously occupied by an HCV tenant-based voucher participant; and,
- The unit is not a Low-Income Housing Tax Credit (LIHTC) unit; and,
- The Request for Tenancy Approval (RFTA) for the new tenant is received within 90 days from the date that the last HCV tenant-based voucher participant vacated the unit.

Shared Housing: An owner will be issued a loyalty payment for a shared housing unit using the following calculation: ($\$1500 / \text{total bedrooms in unit}$) x (family's subsidy size.)

EHV Participants: Payments in the amount of \$1,500, will be made to participating owners who re-lease a vacant unit to an EHV tenant-based voucher holder if:

- The unit was ever previously occupied by a tenant-based voucher participant (any program); and,
- The unit is not a Low-Income Housing Tax Credit (LIHTC) unit.

PBV: For Vacancy Payment information, see Chapter 16.

Non-MTW Participants:

Mod Rehab: For Vacancy Payment information, see Chapter 17.

9.7 BONUS PAYMENTS

24 CFR 982.311(a): “Payments under HAP contract. Housing assistance payments are paid to the owner in accordance with the terms of the HAP contract. Housing assistance payments may only be paid to the owner during the lease term, and while the family is residing in the unit.”

24 CFR 982.311(d): “Family move-out. (1) If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out.”

MTW Plan:

The HA will provide “new owners who rent their unit to an HCV participant [with] a one-

time bonus payment [...]. The bonus payment amount will be reviewed annually and included in the Section 8 Administrative Plan. Staff will evaluate several factors prior to determining the annual bonus payment amount, including: County vacancy rates, open market rental costs and the amount of participants shopping for housing.”

Policy:

New Owner Bonus for MTW Participants (applies to CHDR, HCV, EHV, FUP, FYI, Mainstream, NED, SNDR, TPV and VASH programs): A one-time new owner bonus payment in the amount of \$1,500 will be made to new owners who rent units to an HCV tenant-based voucher participant if:

- The owner has not previously rented a unit to a tenant receiving assistance under any Section 8 program before; and,
- The unit is not a Low-Income Housing Tax Credit (LIHTC) unit.

The policy above does not apply to PBV or Enhanced vouchers.

Rent-in Place Bonus for EHV Participants: A one-time rent in place bonus payment in the amount of \$1,500 will be made to owners who allow a new EHV voucher holder to rent in place in the unit they currently live in as a non-voucher holder.

Non-MTW Participants: Mod Rehab units are not eligible for bonus payments.

CHAPTER 10. REEXAMINATIONS

10.0 INTRODUCTION

This chapter outlines the policies for scheduled and interim reexaminations of family income and composition.

10.1 REEXAMINATION SCHEDULES

24 CFR 982.516(a)(1): “The PHA must conduct a reexamination of family income and composition at least annually.”

MTW Plan: The HA “will institute a three-year reexamination period for families who receive income solely from Social Security, Supplemental Security Income, [and/or retirement] pensions, since these sources are subject to predictable and minimal increases. For all other families, reexamination will occur biennially...”

Policy:

MTW participants: Families, who receive income solely from Social Security, Supplemental Security Income, Veterans Benefits, Cash Assistance Program for Immigrants (CAPI), retirement pensions and/ or have 100% excluded income will have their income and family composition reexamined every three years. For all other eligible families, reexamination will take place every two years.

Non-MTW participants: The HA will conduct annual reexaminations for families on the Moderate Rehabilitation program.

The following policies apply to MTW and non-MTW families:

The HA will conduct reexaminations by mail. However, if necessary or if requested by the family, the HA can conduct reexaminations by appointment at the HA’s office. If an appointment is scheduled and the family fails to attend the appointment, a second and final appointment will be scheduled. The family can request a reschedule of their appointment once (either the first or final appointment) by calling the HA in advance of the appointment.

If a family fails to attend their final appointment, or if the appointment letter is returned by the post office with no forwarding address, the HA will begin the process to terminate the housing assistance.

If a family is unable to obtain the information or documentation needed to complete their reexamination within 15 days, the family may request an extension.

If a family fails to submit required documentation in the required timeframe, or if the notice describing the required documentation is returned by the post office with no forwarding address, the HA will begin the process to terminate the housing assistance.

10.2 INTERIM REEXAMINATIONS

~~24 CFR 982.516(b)(3): "Interim reexaminations must be conducted in accordance with policies in the PHA Administrative Plan."~~

24 CFR 982.516(d): "The owner must adopt policies consistent with this section prescribing when and under what conditions the family must report a change in family income or composition."

Policy:

Families are required to report the following changes in writing within 15 calendar days of occurrence:

- Changes in family composition;
- Changes in income.

24 CFR 982.516(c)(2): "The PHA may decline to conduct an interim reexamination of family income if the PHA estimates that the family's adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income (or a lower amount established by HUD through notice), or a lower threshold established by the PHA."

24 CFR 982.516(c)(3): "The owner must PHA an interim reexamination of family income when the PHA becomes aware that the family's adjusted income (as defined in § 5.611 of this title) has changed by an amount that the PHA estimates will result in an increase of ten percent or more in annual adjusted income or such other amount established by HUD through notice, except:

(i) The PHA may not consider any increase in the earned income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction under paragraph (c)(1) of this section during the certification period; and

(ii) The owner may choose not to conduct an interim reexamination in the last three months of a certification period."

MTW Plan: SCCHA will only process increases in income between regularly scheduled reexaminations in the following cases:

- To include the income of a family member being added to the household;

- Increases in income for a zero-income family;
- Including previously uncounted income during an interim decrease that would otherwise make the family zero-income;
- Increases in income if the family is in a repayment plan with SCCHA;
- If the participant requests an interim for increases in their income;
- If an FSS participant requests an interim for increases in their earned income;

Policy:

MTW participants: An interim reexamination ~~must~~ will be conducted when the reported change results in a(n):

- Decrease in total family income of any amount;
- ~~Change in Family composition.~~ Increase in total family income due to the addition of a new family member. Income received by or on behalf of a new family member will be counted in total income;
- Increase in income for Zero-Income families;
- Increase in income for families under an active payment agreement with the HA;
- Increase in income for families who have qualified for a Minimum Rent Hardship Exemption (see Chapter 4.75 for information on Minimum Rent);
- A decrease in total family income such that the change brings the family to Zero-Income. During this interim reexamination the HA will examine, and include in family income, the previously uncounted income of all family members, up to but not to exceed the total family income at the last effective certification. Income will be included even if previous income increases were not counted due to HA policy.

An interim reexamination may be conducted, per the family's request, when the reported change is an:

- Increase in earned income for families in an active Family Self-Sufficiency contract;
- Increase in income;
- Increase in Payment Standard that results in a decrease in Tenant Rent to Owner for families with an MTW voucher.

Non-MTW participants:

Income decrease: An interim reexamination will be conducted when the reported change results in a decrease in adjusted income of any amount.

Income increase: An interim reexamination will be conducted when the reported change results in an increase in adjusted income of 10% or more, except that the HA will not count any increases in earned income when calculating how much the family's adjusted income has changed.

MTW and non-MTW participants:

HA will not conduct an interim reexamination in the last three months of the reexamination period for an increase in income, provided the family reported the increase timely.

A family must attend a scheduled interim reexamination appointment as notified by the HA. If the family fails to attend the appointment, a second and final appointment will be scheduled. The family can request a reschedule of their appointment once (either the first or final appointment) by calling the HA in advance of the appointment.

If a family fails to attend their final appointment, or if the letter is returned by the post office with no forwarding address, the HA will begin the process to terminate the housing assistance.

When an interim reexamination is conducted, only those factors that have changed are verified, except as noted above.

24 CFR 982.505(c)(4): “If the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family’s first regular reexamination on or after the effective date of the increase in the payment standard amount.”

MTW Plan: The HA will “apply the current payment standard (if the payment standard has increased since the family’s last regular reexamination) to the calculation of the monthly housing assistance payment at interim reexaminations. If the payment standard decreased, the decreased payment standard will be effective at the family’s second regular reexamination as outlined in HUD regulation 24 CFR 982.505(c)(3).”

Policy:

MTW Participants: When an increase in the payment standard occurs following the family’s most recent regular reexamination or new contract calculation, the HA will apply the current, increased payment standard when calculating the housing assistance payment for an interim reexamination.

Non-MTW Participants: When calculating the monthly housing assistance payment for an interim reexamination, the HA will apply the payment standard in effect at the family’s last regular reexamination or new contract calculation as per HUD 24 CFR 982.505 (c) (4).

24 CFR 982.517(d): “The PHA must use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the family unit size as determined under the PHA subsidy standards.”

Policy:

Non-MTW Participants: The HA will apply the current utility allowance when calculating the housing assistance payment for an interim reexamination.

10.3 CHANGES IN FAMILY COMPOSITION

24 CFR 982.551(h)(2): “The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family members as an occupant of the unit.

Policy:

Changes to family composition must be reported within 15 days of the change.

The HA will approve additional family members in the following cases:

- The birth, adoption or court-awarded custody* of a child to a current family member.
- The addition of a non-biological minor child through designated full-time custody** to a current family member. †
- The addition of a minor child by birth or adoption, who has been living elsewhere, to a current family member. †

* If the child is subject to a joint physical custody agreement, the agreement must stipulate that they live with the participant family at least 6 months or 50% of the year.

** Designated custody is physical custody granted through notarized, written permission from the parent or legal guardian of the child.

† The rental property owner must provide written approval for the minors to move into the home before the HA can add them to the family composition.

- A child or children cannot be assisted by more than one federal, state or local housing assistance program. If both parents are assisted, the dependent(s) will be part of the household of first assistance until the HA receives a request to remove the dependent(s) from the household.

The HA may approve additional family members in the following cases:

- The addition of a Spouse, Registered Domestic Partner or Boyfriend or Girlfriend of the Head of Household;
- The addition of an elderly person or a person with a disability who is a parent, grandparent or adult child of the Head of Household, Spouse, Registered Domestic Partner, or Boyfriend or Girlfriend of the Head of Household;

- A foster child, already in the household, who turns 18 and for whom the family is no longer receiving foster care benefits, may remain in the household as a family member.

The HA may approve the addition of household members in the following cases:

- A foster child of a Head of Household, Spouse, Registered Domestic Partner, or Boyfriend or Girlfriend of the Head of Household.
- A foster child, under the Extended Foster Care Program (EFC) as a Non-Minor Dependent (NMD) up to age 21 of the Head of Household, Spouse, Registered Domestic Partner, Boyfriend or Girlfriend of the Head of Household.
- A live-in aide as an approved reasonable accommodation. The live-in aide may not have been a member of the participant's family for at least one year prior to approval as a live-in aide, must maintain his or her finances separately, may not contribute financially to the family, have the capacity to live independently from the family member and must not have an ownership interest in the family's rental unit.

When an approved live-in-aide moves out of the unit, the HA will remove the live-in aide from the household. The family has 90 days to submit, and have approved by the HA, a new live-in-aide. If no live-in aide is submitted or the new live-in aide is not approved within 90 days, the subsidy size will be reduced, if applicable. The change in subsidy size will be effective according to Section 10.4 of the Administrative Plan, depending on whether the household is part of the MTW program

10.4 CHANGE IN FAMILY SUBSIDY/VOUCHER SIZE BETWEEN REEXAMINATIONS

24 CFR 982.505(c)(1): "The payment standard for the family is the lower of:

- (i) The payment standard amount for the family unit size; or
- (ii) The payment standard amount for the size of the dwelling unit rented by the family."

24 CFR 982.505(c)(5): "Irrespective of any increase or decrease in the payment standard amount, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in the family unit size."

MTW Plan: "If a Housing Choice Voucher (HCV) family's composition changes between regular reexaminations, the new voucher (family unit) size and corresponding payment standard [will be] applied in a calculation immediately rather than at the next regular reexamination".

"...if a household's voucher size changes due to a change in the agency's subsidy

standard policy, the new voucher size would not take effect for households in a unit under a Housing Assistance Payment (HAP) contract until (1) the family moves; or (2) the rental market vacancy rate remains 5 percent or higher for at least six months, whichever occurs first.” “If vacancy rates rise to 5 percent or higher for two quarters (six months) in a row, HACSC will provide a generous minimum notice period to the family before applying the reduced voucher size in the rent calculation.”

Policy:

MTW Participants (Change in Subsidy/Voucher Size due to a Change in Family Composition and/or Change in a Reasonable Accommodation): If the family voucher size increases or decreases due to a change in family composition and/or a change in a reasonable accommodation during the HAP contract term, the new family voucher size will be effective immediately.

When a new voucher size is applied between regularly scheduled reexaminations and results in no change in the family’s portion of rent or a decrease in the family’s portion of rent, the interim reexamination will be effective on the first day of the month following the receipt of all required or requested documents from the family regarding the change.

When a new voucher size is applied between regularly scheduled reexaminations that results in an increase in the family’s portion of rent, the interim reexamination will be effective on the first day of the month following an HA-provided 30 day notice of the change to the family. In incidents of documented VAWA cases where the perpetrator moves out leaving the victim in the unit, the change in the family’s voucher size will be processed the later of the interim date or the regular reexamination date.

MTW Participants (Change in Subsidy/Voucher Size due to a Change in the Agency’s Subsidy Standard Policy): If the vacancy rate (based on a local rental market trend database, such as REIS) rises to 5 percent or higher for at least 6 months (two consecutive quarters), HACSC will provide a one-year notice to the family before applying the reduced voucher size in the rent calculation.

Non-MTW Participants: Changes in family voucher size between annual reexaminations will be processed in accordance with 24 CFR 982.505 (c) (5) for families with special purpose vouchers.

10.5 POLICIES ON GUESTS AND OTHER TEMPORARY HOUSEHOLD MEMBERS

24 CFR 5.100(8): “Guest, only for purposes of 24 CFR part 5, subparts A and I, and parts 882, 960, 966, and 982, means a person temporarily staying in the unit with the consent of the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Policy:

Guests

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 (subject to lease terms).

Children under a court-ordered, joint custody arrangement that are outside of the assisted household more than 50 percent of the time are not subject to the guest time limitations 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 that 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.

Caretaker for Children

An adult caretaker may move into an assisted unit to assume responsibility for children:

- in the absence of the parent or guardian who is the Head of Household; and
- if documentation of the established relationship is provided.

The caretaker will be added as a temporary Head of Household (pending determination of eligibility and owner approval).

The temporary Head of Household's income will be included in the calculation of family income.

The caretaker will be considered a temporary family member until 90 days has elapsed or legal custody or guardianship of the child (ren) has been issued, whichever comes first. At that time, the caretaker will be added as the permanent Head of Household.

If information is provided that would confirm that the caretaker's role is temporary, the HA may extend the caretaker's status as a temporary Head of Household past the 90-day time limit, pending further documentation.

10.6 HEAD OF HOUSEHOLD CHANGES

HUD-50058 Form: "Head of Household-- The one adult member of the household, designated by the family or by PHA policy as the head of household, who is wholly or partly responsible for rent payment."

Policy:

The Head of Household may transfer Head of Household relationship status, roles and responsibilities to the Spouse, Registered Domestic Partner, or Boyfriend/Girlfriend.

In cases where both the Head of Household or their Spouse, Registered Domestic Partner or Boyfriend/Girlfriend (if any) are not capable of fulfilling the roles and responsibilities of the Head of Household, the Head of Household may request to transfer that role to another adult family member as a reasonable accommodation according to existing policies and procedure.

10.7 EFFECTIVE DATE OF INTERIM REEXAMINATIONS

~~24 CFR 982.516 (D) (1): "The PHA must adopt policies prescribing how to determine the effective date of a change in the housing assistance payment resulting from an interim redetermination."~~ 24 CFR 982.516(c)(4): "Effective date of rent changes.

(i) If the family has reported a change in family income or composition in a timely manner according to the PHA's policies, the PHA must provide the family with 30 days advance notice of any family share and family rent to owner increases, and such increases will be effective the first day of the month beginning after the end of that 30-day period. Family share and family rent to owner decreases will be effective on the first day of the first month after the date of the reported change leading to the interim reexamination of family income.

(ii) If the family has failed to report a change in family income or composition in a timely manner according to the PHA's policies, PHAs must implement any resulting family share and family rent to owner increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income. Any resulting family share and family rent to owner decrease must be implemented no later than the first rent period following completion of the reexamination. However, a PHA may apply a family share and family rent to owner decrease retroactively at the discretion of the PHA, in accordance with the conditions established by the PHA in the Administrative Plan and subject to paragraph (c)(4)(iii) of this section."

Policy:

A decrease in the family's portion of the rent is effective on the first day of the month following the ~~receipt of all required or requested documents from the family regarding the change.~~

An increase in the family's portion of the rent is effective on the first day of the month following an HA-provided 30-day notice of the change to the family.

If the family causes a delay so that the processing of the interim reexamination is not completed by the effective date as outlined in HA policy:

- A decrease in the family's portion or rent ~~the adjustment in the housing assistance~~

~~payment (increase or decrease)~~ will be effective on the first day of the month following completion of the interim reexamination.

- An increase in the family's portion of rent will be retroactively effective on the first day of the month following the date of the change.

10.8 EFFECTIVE DATE OF REGULAR REEXAMINATIONS

24 CFR 982.516(ed)(2): "At the effective date of a regular or interim reexamination, the PHA must make appropriate adjustments in the housing assistance payment."

Policy:

An increase in the housing assistance payment (decrease in the family rent to the owner) that results from a regular reexamination will take effect on the family's scheduled reexamination date.

If the housing assistance payment decreases (and family's rent to the owner increases) as a result of a regular reexamination, the HA will provide a minimum 30 day notice of the change to the family.

If the family causes a delay so that the processing of the regular reexamination is not completed by the scheduled reexamination date, the adjustment in the housing assistance payment (increase or decrease) will be retroactively effective on the scheduled reexamination date, even if it provides less than a 30-day notice to the family.

10.9 ASSET LIMITATION AT REEXAMINATIONS

PIH Notice 2023-27: "PHAs/MFH Owners have discretion with respect to the application of the asset limitation at annual and interim reexamination."

24 CFR 5.618(c): "(1) When recertifying the income of a family that is subject to the restrictions in paragraph (a) of this section, a PHA or owner may choose not to enforce such restrictions, or alternatively, may establish exceptions to the restrictions based on eligibility criteria.

(2) The PHA or owner may choose not to enforce the restrictions in paragraph (a) of this section or establish exceptions to such restrictions only pursuant to a policy adopted by the PHA or owner.

(3) Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

(d) Delay of eviction or termination of assistance. The PHA or owner may delay for a period of not more than 6 months the initiation of eviction or termination proceedings of a family based on noncompliance under this provision unless it conflicts with other provisions of law.”

Policy:

If a family is found to be out of compliance with the asset limitation (see Chapter 3.4) at reexamination, HA will provide the family 180 days to come back into compliance.

If the family does not demonstrate to HA that they are back in compliance within the 180 days provided, HA will provide a written 30 days’ notice to the family to terminate assistance. Families have the right to request reasonable accommodation either for an extension on the time provided to come back into compliance or to delay termination up to but not longer than six months.

Exception policy. SCCHA will not enforce the asset limitation at reexamination for:

- Elderly or disabled families (Head, co-head, or spouse is 62 years or older, or has a disability).
- Families converted to Section 8 assistance due to SCCHA activity such as property acquisition, redevelopment, or program conversion.

10.10 DE MINIMIS ERROR

24 CFR 982.516(c)(4): “The PHA or owner will not be considered out of compliance with the requirements in this paragraph (c) solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA or owner determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family. The PHA or owner must still take any corrective action necessary to credit or repay a family if the family has been overcharged for their rent or family share as a result of the de minimis error in the income determination, but families will not be required to repay the PHA or owner in instances where a PHA or owner has miscalculated income resulting in a family being undercharged for rent or family share.”

Policy:

When a family is overcharged due to calculation error, HA makes a retroactive correction and informs the owner to credit the family for the difference. If the participants has vacated the unit, the credit will be mailed to the participant.

When a family is undercharged, HA makes a retroactive correction and absorbs the cost.

CHAPTER 11. MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

11.0 INTRODUCTION

This chapter describes the HA policies governing moves within or outside the HA's jurisdiction. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

11.1 ALLOWABLE MOVES

24 CFR 982.354(b): "When a family may move. A family may move to a new unit if:

- 1. The assisted lease for the old unit has terminated. This includes a termination because:

(i) The PHA has terminated the HAP contract for the owner's breach; or (ii) The lease has terminated by mutual agreement of the owner and the tenant.**
- 2. The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant.**
- 3. The tenant has given notice of lease termination.**
- 4. The family or a member of the family, is or has been the victim of domestic violence, dating violence, sexual assault or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking), and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move."**

24 CFR 982.354(e)(2): At any time, the PHA may deny permission to move in accordance with section 982.552 (grounds for denial or termination of assistance.)"

Policy:

The HA will deny the family permission to move if:

- The HA has issued a termination letter to the family and the time to request a hearing has expired or the outcome of the hearing was to uphold the HA's decision.
- The family is in a contract that is receiving no Housing Assistance Payments (zero HAP). Exceptions will be made on a case-by-case basis for VAWA and Reasonable Accommodations.

The HA may deny the family permission to move if:

- The family has not fulfilled their initial lease term. Exceptions to this policy may be granted when owner and tenant mutually agree to terminate the lease or for extenuating circumstances such as domestic violence or as an approved reasonable accommodation.

The HA has no additional restrictions regarding the number of moves a participant family may make.

Copies of vacate notices must be provided to the HA for the determination of the family’s eligibility to receive continued assistance. Vacate notices must be in accordance with the lease.

24 CFR 982.311(d)(2): “If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy”

Policy:

The HA does not allow overlap of Housing Assistance Payments for a tenant except in the case of VAWA or an approved reasonable accommodation.

11.2 ENHANCED VOUCHER REQUIRED MOVES

Public and Indian Housing Notice 2016-02 (Enhanced Voucher Requirements for Over-housed Families): “When the PHA is informed [by owner] that an appropriate size unit is available, the PHA must immediately notify the over-housed family of the availability of the unit and the family must move to the appropriate size unit in a reasonable time (as determined by the PHA, but not to exceed 30 days) to continue to receive enhanced voucher assistance.”

Policy:

A family living in an over-sized unit with an Enhanced Tenant Protection Voucher must move to an appropriately sized unit within 30 days of the unit becoming available. If there is a greater number of over-housed families than appropriately sized units, the family with the shortest tenancy tenure is required to move.

11.3 PORTABILITY

24 CFR 982.355(a): “When a family moves under portability to an area outside the initial PHA’s jurisdiction, the receiving PHA must administer assistance for the family....”

PIH Notice 2021-15: “The PHA may not restrict an EHV family from exercising portability because they are a non-resident applicant.”

Incoming Portability Policy:

Incoming portability families must have a current voucher from the initial HA. Incoming portability families will be required to attend a briefing.

SCCHA will absorb all incoming portability families.

Outgoing Portability Policy:

Outgoing portability families will not be required to attend a briefing.

Applicants who live in Santa Clara County at the time of their waiting list registration may exercise portability upon receipt of their voucher.

EHV Program applicants may exercise portability upon receipt of their voucher.

Applicants who live outside of Santa Clara County at the time of their waiting list registration must reside in Santa Clara County for the first year of their participation in the program unless both SCCHA and the receiving HA agree to grant an exception.

The Voucher term for a family porting out of Santa Clara County will be 180 days (120 days plus an automatic 60-day extension.) SCCHA will not extend the voucher term based on the Receiving Housing Authority’s request to SCCHA to extend the voucher term or the billing notice deadline.

If SCCHA has not received an initial billing notice from the receiving HA by the deadline specified on HUD form 52665, it will not honor late billing submissions and will return any subsequent billings. SCCHA may allow exceptions to this policy with approval by a Housing Department Manager.

11.4 VOUCHER EXTENSION FOR INCOMING PORTABILITY

24 CFR 982.355(c)(8): “The family must promptly contact the receiving PHA in order to be informed of the receiving PHA's procedures for incoming portable families and comply with these procedures. The family's failure to comply may result in denial or termination of the receiving PHA's voucher.”

(13) “The receiving PHA must issue a voucher to the family. The term of the receiving PHA voucher may not expire before 30 calendar days from the expiration date of the initial PHA voucher. If the voucher expires before the family arrives at the receiving PHA, the receiving PHA must contact the initial PHA to determine if it will extend the voucher.”

(14) “Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must notify the initial

PHA of any extensions granted to the term of the voucher.”

Policy:

SCCHA will apply its policies on voucher extensions as outlined in Chapter 6 of this Administrative Plan.

CHAPTER 12. DENIAL OR TERMINATION OF ASSISTANCE

12.0 INTRODUCTION

The HA may deny assistance to a family or to the requested addition of a household member or terminate assistance to a family because of the family's action or failure to act. This chapter outlines the HA's policies on denial of admission or termination of assistance. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

12.1 DENIAL OF ASSISTANCE OR ADMISSION

24 CFR 982.552(b): “(3) The PHA must deny admission to the program for an applicant... if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title. (4) The family must submit required evidence of citizenship or eligible immigration status. (5) The PHA must deny...assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.”

24 CFR 982.553(a)(1)(i): “The PHA must prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA may admit the household if the PHA determines: (A) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or (B) That the circumstances leading to eviction no longer exist (for example, the criminal household member died or is imprisoned).”

24 CFR 982.553(a)(1)(ii): “The PHA must establish standards that prohibit admission if: (A) The PHA determines that any household member is currently engaging in illegal use of a drug; (B) The PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or (C) Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.”

24 CFR 982.553(a)(2)(i): “The PHA must establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.”

Policy:

The HA **must** deny assistance in the following cases:

- Any member of the family fails to sign and submit consent forms for obtaining information to verify program eligibility.
- Failure to document citizenship or eligible immigration status.
- If no member of the family is a U.S. citizen or eligible immigrant.
- If any member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- If any household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity unless the household member provides proof of successful completion of a drug rehabilitation program or the household member is deceased or in prison.
- The HA determines that any household member is currently engaged in the use of illegal drugs.
- The HA has reasonable cause to believe that any 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.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

24 CFR 982.552(c)(1): “The PHA may at any time deny program assistance for an applicant...for any of the following grounds: (i) If the family violates any family obligations under the program; (ii) If any member of the family has been evicted from federally assisted housing in the last five years; (iii) If a PHA has ever terminated assistance under the program for any member of the family; (iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program; (v) If 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 Act....”

Policy:

A family **may** be denied assistance, or the requested addition of a household member **may** be denied, if any household member is currently engaged in or has in the past three years engaged in any of the following activities:

- 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,

<p>property owners and management staff, and by persons performing contract administration functions or other responsibilities on behalf of the HA.</p> <ul style="list-style-type: none"> • Conviction for drug-related or violent criminal activity. • Failure to provide any or all information that the HA or HUD determines is necessary in the administration of the program. • Failure to provide accurate information to the HA. • Eviction from federally-assisted housing in the last three years. • Housing assistance has ever been terminated by any housing authority. • Fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. • Owing rent or other amounts to any HA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.* • Failure to reimburse the HA for any amounts the HA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.* • Threatening or actual violent or abusive behavior toward HA personnel. <p>* The HA will not deny assistance on the basis of uncollected damage claim payments made by the HA to an owner on an applicant's behalf prior to 1999.</p>

12.2 TERMINATION OF ASSISTANCE

24 CFR 982.552(b)(2): “The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.”

24 CFR 982.552(b): “(3) A PHA must...terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title. (4) The family must submit required evidence of citizenship or eligible immigration status. (5) The PHA must...terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.”

24 CFR 982.553(b)(1)(ii): “The PHA must immediately terminate assistance for a family under the program if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.”

Policy:

The HA **must** terminate assistance for the following reasons:

- If the family is **evicted** from housing assisted under the program for serious lease

- violations, which will include, but not be limited to: failure to pay rent, violent or drug-related criminal activity, abuse of alcohol.
- Any member of the family fails to sign and submit consent forms for obtaining information to re-verify program eligibility.
 - Failure to document citizenship or eligible immigration status. Failure to document citizenship or eligible immigration status
 - If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
 - Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

24 CFR 5.232 (a)-(c): “[...] if the assistance applicant or participant, or any member of the assistance applicant's or participant's family, does not sign and submit the consent form as required in § 5.230, then: (1) The processing entity shall deny assistance to and admission of an assistance applicant; (2) Assistance to, and the tenancy of, a participant may be terminated [...] This section does not apply if the applicant or participant, or any member of the assistance applicant's or participant's family revokes his/her consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes an admission and occupancy policy that revocation of consent to access financial records will result in denial or termination of assistance or admission.”

24 CFR 982.552(c)(1): “The PHA may at any time... terminate program assistance for a participant for any of the following grounds: (i) If the family violates any family obligations under the program; (ii) If any member of the family has been evicted from federally assisted housing in the last five years; (iii) If a PHA has ever terminated assistance under the program for any member of the family; (iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program; (v) If 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 Act...”

24 CFR 982.553(b)(1)(i): “The PHA must establish standards that allow the PHA to terminate assistance for a family under the program if the PHA determines that: (A) Any household member is currently engaged in any illegal use of a drug; or (B) A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.”

24 CFR 982.553(b)(1)(iii): “The PHA must establish standards that allow the PHA to terminate assistance under the program for a family if the PHA determines that any family member has violated the family’s obligation under 982.551 not to engage in any drug-related criminal activity.”

24 CFR 982.553(b)(2): “The PHA must establish standards that allow the PHA to terminate assistance under the program for a family if the PHA determines that any household member has violated the family’s obligation under 982.551 not to engage in violent criminal activity.”

24 CFR 982.553(b)(3): “The PHA must establish standards that allow termination under the program if the PHA determines that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.”

NOTICE: PIH 2012-28: “If the recertification screening reveals that the tenant has falsified information or otherwise failed to disclose criminal history on his/her application and/or recertification forms, the O/A or PHA should pursue eviction or termination of assistance...”

“...if the tenant or member of the tenant’s household, regardless of the date of admission, engages in criminal activity (including sex offenses) while living in HUD-assisted housing, the O/A or PHA should pursue eviction or termination of assistance to the extent allowed by HUD requirements, the lease, and the state or local law.”

Policy:

The HA **may** terminate assistance for the following reasons:

- For **violations** of the lease which will include, but not be limited to: nonpayment of rent, disturbance of neighbors, and destruction of property.
- If the family does not receive a transfer voucher prior to moving out of an assisted unit.
- If a family member engages in the use of illegal drugs or violent criminal activity.
- If the HA has reasonable cause to believe that any 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.
- 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.
- If any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If a family member has engaged in or threatened violent or abusive behavior toward HA personnel.
- If a household member has engaged in criminal activity (by preponderance of evidence) regardless of whether the member has been arrested or convicted.
- If the family violates any family obligations under the program.
- If a household member has falsified information or otherwise failed to disclose criminal history on his/her reexamination forms.

- If any member of the household is found to be subject to a lifetime registration requirement under a State sex offender registration program at the annual/regular reexamination.*

Family revocation of consent: HA will not terminate assistance if the family revokes their consent with respect to the HA's ability to access income information. However, if the family revokes consent, they will be required to sign consent forms at their next annual or interim reexamination.

***Note:** There is currently no HUD statutory or regulatory basis to evict or terminate assistance of a household solely on the basis of a household member's sex offender registration status if the following two criteria are met:

1. The household member was admitted to the program prior to June 25, 2001; **and**
2. The household member's sex offender registration status occurred before June 25, 2001.

12.3 CONSIDERATION OF CIRCUMSTANCES

24 CFR 982.552(c)(2): "In determining whether to deny or terminate assistance because of action or failure to act by members of the family: (i) 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."

Policy:

In deciding whether to deny or terminate assistance, the HA will consider:

- Whether 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.
- The seriousness of the case, especially with respect to how it would affect other residents.
- The effect that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future.
- In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the HA will consider if the household member is participating in or has

successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

12.4 **OTHER TERMINATIONS OF ASSISTANCE**

24 CFR 982.312(a): “The family may be absent from the unit for brief periods. For longer absences, the PHA Administrative Plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason.”

Policy:

If the family is absent from the unit for more than 180 consecutive days, the family assistance will be terminated.

24 CFR 982.455: “The HAP contract terminates automatically 180 days after the last housing assistance payment to the owner.”

Policy:

If no housing assistance payments are made on the family’s behalf for a minimum of 180 days, the family assistance will be terminated.

24 CFR 982.454: “The PHA may terminate the HAP contract 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.”

Policy:

If the HA determines it has insufficient funding to support continued assistance for families in the program, it may terminate assistance on a last-on, first-off basis.

24 CFR 982.311(d)(1): “If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.”

Policy:

If the family moves from the unit without notice to the owner and the PHA, SCCHA will terminate the HAP contract and the family’s assistance at the end of that calendar month in which the family moves out.

CHAPTER 13. INFORMAL REVIEWS AND HEARINGS

13.0 INTRODUCTION

The HA conducts informal reviews and hearings to ensure its decisions are in accordance with the law, HUD regulations and HA policies. This Chapter describes HA policies related to when the HA provides an informal review to an applicant or an informal hearing to a participant family. The policies in this Chapter pertain to Moving to Work and non-Moving to Work families.

13.1 INFORMAL REVIEWS FOR APPLICANTS

24 CFR 982.554(a): “Notice to applicant. The PHA must give an applicant prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the PHA decision. The notice must also state that the applicant may request an informal review of the decision and must describe how to obtain the informal review.

(b) Informal review process. The PHA must give an applicant an opportunity for an informal review of the PHA decision denying assistance to the applicant.”

Policy:

An Applicant’s written request for a review must be received no later than 15 days from the date of the HA notice to deny assistance.

The HA will schedule the review within 10 days from receipt of the request from the family.

Reviews may be conducted in person, by telephone or by mail for all applicants.

In rendering a decision related to denial of assistance, the HA will evaluate the following factors:

- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations or in HA policy, then the decision to deny assistance will be overturned.
- The validity of the evidence. The HA will evaluate whether the facts presented support the grounds for denial of assistance. If the facts show that there are grounds for denial, and the denial is required by HUD, the HA will uphold the decision to deny assistance.

The HA will notify the applicant of the final decision within 30 days from the date of the

informal review.

The HA will not withdraw a family's position on the waiting list until the time allowed for the family to request an informal review has elapsed.

13.2 INFORMAL HEARINGS FOR PARTICIPANTS

24 CFR 982.555(a)(1): "A PHA must give a participant family an opportunity for an informal hearing to consider whether ... PHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and PHA policies."

24 CFR 982.555(a)(2): "...the PHA must give the opportunity for an informal hearing before the PHA terminates housing assistance payments for the family under an outstanding HAP contract."

24 CFR 982.555(d): "Where a hearing for a participant family is required under this section, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family."

24 CFR 982.555(e): "The administrative plan must state the PHA procedures for conducting informal hearings for participants."

Policy:

A participant's written request for a hearing must be received no later than 15 days from the date on the HA notice to terminate assistance or the HA's written explanation of its decision regarding the participant family's individual circumstances.

The HA will send written notice of the informal hearing appointment date and time to the family within 10 days of receipt of the request from the family.

Under certain circumstances, the HA may perform the hearing by mail or telephone.

If a hearing is requested and takes place based on the HA's notice to terminate assistance, the HA will not terminate the assistance until the hearing decision has been reached.

The family may request to reschedule an informal hearing one time:

- If the request is received no later than 1 business day after the scheduled hearing date; or
- Due to an unavoidable conflict which affects the health, safety or welfare of the family or as a reasonable accommodation for a person with disabilities.

At its discretion, the HA may request documentation of the need to reschedule prior to rescheduling the informal hearing.

If the family does not appear at a scheduled hearing and does not request to reschedule the hearing, no further hearing dates will be scheduled and the HA's decision will be upheld.

At the hearing officer's discretion, children may be denied admittance to the hearing.

Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the informal hearing at the discretion of the hearing officer. The hearing officer may end the hearing due to disruptive behavior by the program participant.

Hearings will be audio taped and the recordings will be saved for 90 days.

13.3 RIGHT OF FAMILY TO REVIEW DOCUMENTS

24 CFR 982.555(2)(i): "... The family must be given the opportunity to examine before the PHA hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. If the PHA does not make the document available for examination on request of the hearing the PHA may not rely on the document at the hearing."

Policy:

If the hearing is conducted in person and upon the family's request, the HA will provide an opportunity for the family to copy the documents to be presented at the hearing three days in advance of the hearing. If the hearing is conducted by phone, the hearing packet shall be mailed to the family five business days in advance of the hearing.

24 CFR 982.555(2)(ii): "The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at PHA offices before the PHA hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such documents at the PHA's expense."

Policy:

The family must submit the documents that they will present during the hearing along with a list of the attending witnesses at least three days before the hearing. The HA must be allowed to copy these documents at the HA's expense.

13.4 INFORMAL HEARING DECISIONS

24 CFR 982.555(e)(4)(i): "The hearing may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person."

24 CFR 982.555(e)(6): “The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.”

24 CFR 982.555(f): “The PHA is not bound by a hearing decision:

- (1) Concerning a matter for which the PHA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the PHA hearing procedures.**
- (2) Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.**
- (3) If the PHA determines that it is not bound by a hearing decision, the PHA must promptly notify the family of the determination, and of the reasons for the determination.”**

Policy:

The Hearing Officer will notify the participant family and the HA of the final decision in writing within 30 days of the date of the informal hearing.

The HA will provide notice in the hearing decision letter regarding timelines for judicial review as governed by the Code of Civil Procedure section 1094.6.

If the participant requests an administrative review of the documentation presented at the informal hearing, the request must be submitted in writing within 15 days from the date of the hearing decision letter.

If the HA determines it is not bound by a hearing decision, the HA will send written notification to the family within 30 days of the Hearing Officer’s written decision or the participant’s request for an administrative review, whichever is later.

13.5 INFORMAL HEARINGS FOR APPLICANTS OR PARTICIPANTS WITH INELIGIBLE IMMIGRATION STATUS

24 CFR 5.514(e)(4): “Pending the completion of the INS appeal under this section assistance may not be delayed, denied, reduced or terminated on the basis of immigration status.”

24 CFR 5.514(f)(1): “After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family may request that the responsible entity provide a hearing. This request must be made either within 30 days of receipt of the notice

described in paragraph (d) of this section or within 30 days of receipt of the INS appeal decision issued in accordance with paragraph (e) of this section.”

24 CFR 5.514 (f)(2)(iii)(A): “The family shall be provided a hearing before any person(s) designated by the responsible entity (including an officer or employee of the responsible entity), 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.”

Policy:

For applicants, if there is a USCIS appeal, assistance may not be delayed, denied or terminated on the basis of the applicant’s immigration status prior to the receipt of the decision of the USCIS appeal.

If an applicant or participant files an appeal with the USCIS, he or she must provide to the HA a copy of the appeal and evidence that the appeal was sent to USCIS. The HA may proceed to deny the application or terminate assistance if a copy of the appeal to USCIS and evidence that the appeal was submitted to USCIS are not submitted to the HA.

A request for a hearing with the HA can be made after a USCIS decision or in lieu of a USCIS appeal. The request must be received either: 30 days from the notice of denial or termination from the HA or within 30 days of receipt of the USCIS appeal decision.

CHAPTER 14. OWNER OR FAMILY DEBTS TO THE HOUSING AUTHORITY

14.0 INTRODUCTION

This chapter describes the HA's policies for the recovery of monies owed to the HA by owners and families. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

14.1 OWNER DEBTS TO THE HOUSING AUTHORITY

24 CFR 982.453(b): "The PHA rights and remedies against the owner under the HAP contract include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract."

Housing Assistance Payments Contract Form HUD 52641 Part B 7. (f): "Overpayment to the Owner. If the PHA determines that the owner is not entitled to the housing assistance payments or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner (including amounts due under any other Section 8 assistance contract)."

Policy:

The HA will use a variety of collection methods to recover owner debts, including, but not limited to: civil suits, repayment agreements, collection agencies, and small claims court.

14.2 FAMILY DEBTS TO THE HOUSING AUTHORITY

24 CFR 982.163: "Under 24 CFR part 792, the PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner by litigation, court order or a repayment agreement."

PIH 2010-19 (HA): "Tenants are required to reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA must terminate the family's tenancy or assistance, or both. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs."

"PHAs are required to determine retroactive rent amount as far back as the PHA has

documentation of family reported income... The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income. However, PHAs have the discretion to establish thresholds and policies for repayment agreements in addition to HUD required procedures.

Policy:

At the HA's discretion, participant families who owe a maximum of \$5,000 to the HA may retain their housing assistance and enter into a repayment agreement if the debt will be repaid within 24 months. Lump sum payments are encouraged to expedite the payment timeline and to finalize payments within the 24-month timeframe.

The maximum length of time the HA will enter into a repayment agreement with a family is 24 months.

The minimum monthly amount due under any repayment terms will be \$25. The payment agreement term shall range from two to 24 months, but shall in any event be the minimum time period in which the participant can be reasonably expected to repay the debt owed.

The monthly payment shall be the greater of \$25 or the total amount due divided by the number of months in the term of the payment agreement, up to 24 months.

A family's monthly repayment charge and rent payment combined must not exceed 40 percent of the family's monthly adjusted income.

Payments shall be delinquent if not received by the HA within 15 days of the due date. Failure to make any payment before it is delinquent shall constitute a default under the payment agreement. When a payment is delinquent, the participant's assistance must be terminated and the HA may pursue any available method to collect the balance owed.

If the family requests to move to another unit and is in arrears on a repayment agreement, the family will not be permitted to move.

For families who owe more than \$5,000 to the HA or could not repay their debt within 24 months, every effort shall be made to collect all debts owed, which includes, but is not limited to:

1. Demands for lump sum payments
2. Use of collection agencies; and
3. Securing judgments.

The HA will generally not enter into payment agreements, when:

1. There is an existing payment agreement between the HA and the participant

2. The participant has already had one payment agreement in the past (even if it was paid in full);
3. The HA determines that the participant has committed or has attempted to commit program fraud; or
4. The HA determines that the amount owed is more than the participant can repay within 24 months without exceeding the payment maximum of 40 percent of the family's adjusted income.

Housing assistance will be terminated for any of the following reasons:

1. If the tenant owes more than \$5,000 in retroactive rent;
2. If the tenant refuses to enter a repayment agreement; or
3. If the tenant does not repay the retroactive rent within 24 months.

CHAPTER 15. HOMEOWNERSHIP

15.0 INTRODUCTION

The HA may offer current, eligible HCV participating families the option of purchasing a home and continuing the family's assistance in the form of monthly homeownership payments. HACSC's Moving to Work activities apply to the homeownership program.

15.1 FAMILY ELIGIBILITY REQUIREMENTS

24 CFR 982.626(a): "Before commencing homeownership assistance for a family, the PHA must determine that all of the following initial requirements have been satisfied: (1) The family is qualified to receive homeownership assistance."

Policy:

Participation in the Section 8 Homeownership Program is voluntary. Current Section 8 participants who wish to use their voucher for a home purchase must:

- Meet the general requirements for continued participation in the Section 8 HCV rental program;
- Be in full compliance with their lease and Section 8 Program requirements;
- Have fully repaid any outstanding debt to the Housing Authority;
- Have at least one adult employed full time (minimum of 30 hours per week) who has been continuously employed during the year before commencement of homeownership assistance. Families in which the Head of Household or Spouse is elderly or disabled are exempt from this requirement;
- Be a first time homeowner;
- Not have any member who has a present ownership interest in the residence prior to commencement of homeownership assistance;
- Have completed an HA-approved homeownership counseling program; and
- Meet an HA-approved lender's income and credit requirements and qualify for an HA-approved loan.

15.2 PURCHASE TIMELINE REQUIREMENTS

24 CFR 982.629(a): "The PHA may establish the maximum time for a family to locate a home, and to purchase the home."

Policy:

Due to the nature of the housing market in the Santa Clara County, the HA has not established a maximum time that will be allowed for a family to locate and purchase a

home. The HA may ask the family to periodically report their progress to the HA.

The HA may re-confirm the family's eligibility for the homeownership program or revoke the family's eligibility, if appropriate (i.e., if the family has become non-compliant in the HCV rental program or the HA has closed or terminated the homeownership program).

15.3 FINANCING

24 CFR 982.632(e): "All PHA financing or affordability requirements must be described in the PHA administrative plan."

Policy:

The family is responsible for securing financing. The HA has established financing requirements as listed below and may disapprove proposed financing if the HA determines that the debt is unaffordable. The HA may prohibit the following forms of financing:

- Balloon payment loans
- Variable interest rate loans
- Negative amortization loans
- Seller financing, on a case-by-case basis
- Other financing determined to be "predatory lending"

The HA will require a minimum cash down payment of three percent of purchase price to be paid by the participating household. At least one percent must come directly from the family's resources.

15.4 PARTNERSHIPS WITH AGENCIES AND LENDERS

24 CFR 982.632(c): "The PHA may establish requirements or other restrictions concerning debt secured by the home."

Policy:

The HA encourages partnerships with local agencies and lenders to assist eligible families in obtaining homeownership financing. Current local partners include:

- The City of San Jose Redevelopment Agency and Housing Department;
- Neighborhood Housing Services of Silicon Valley; and
- Acorn Housing Services.

15.5 HOMEOWNERSHIP ASSISTANCE PAYMENTS

24 CFR 982.635(a): “While the family is residing in the home, the PHA shall pay a monthly homeownership assistance payment on behalf of the family that is the lower of:

(1) The payment standard minus the total tenant payment; or

(2) The family’s monthly homeownership expenses minus the total tenant payment.”

24 CFR 982.635(e)(1): “The PHA shall adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.”

Policy:

In determining the amount of the homeownership assistance payment, the HA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in this plan for the HCV Program.

The HA will pay the monthly homeownership assistance payment to the family or to the lender at the discretion of the HA.

Some homeownership expenses are allowances or standards determined by the HA in accordance with HUD Regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

- Principal and interest on mortgage debt
- Mortgage insurance premium
- Taxes and insurance
- The HA allowance for routine maintenance costs
- The HA allowance for major repairs and replacements
- Principal and interest on debt for improvements
- Homeowner Association dues

15.6 MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE

24 CFR 982.634(a): “Except in the case of a family that qualifies as an elderly or disabled family, the family members... shall not receive homeownership assistance for more than:

- **Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or**

- **Ten years in all other cases.”**

24 CFR 982.634(c)(1): “As noted in paragraph (a) of this section, the maximum term of assistance does not apply to elderly and disabled families. (2) In the case of an elderly family the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.”

Policy:

For families in which the Head of Household or Spouse is elderly or disabled, homeownership assistance payments may continue for the term of the mortgage.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced.

CHAPTER 16. PROJECT-BASED VOUCHER PROGRAM

16.0 INTRODUCTION

The Project Based Voucher (PBV) program attaches rental assistance to a particular unit rather than to a family. This chapter outlines the HA's policies pertaining to administration of the PBV Program.

16.1 ALLOCATION OF PBV UNITS BETWEEN HOUSING AUTHORITIES

MTW Agreement Between HUD and Housing Authority of the City of San Jose: Attachment D: "A. Relationship between Housing Authorities. The Housing Authority of the City of San Jose (HASJ) has agreed that on HASJ's behalf the Housing Authority of the County of Santa Clara (HACSC) may submit Annual MTW Plans, Annual MTW Reports and any other MTW documents relating to HASJ's MTW Agreement and may take any actions authorized by HASJ's MTW Agreement. The actions HACSC may take under its MTW Agreement or HASJ's MTW Agreement may include, without limitation, use of any MTW Funds originally committed to HACSC or HASJ, for any purpose and in any manner authorized for either HACSC or HASJ under either MTW Agreement."

April 1, 1996 Agreement Between the Housing Authority of the City of San Jose and the Housing Authority of the County of Santa Clara, Paragraph 4: "The City Authority hereby assigns and delegates to the County Authority the entire management of the Section 23 and Section 8 contracts, allocations and programs in the City of San Jose pursuant to such contracts and amendments thereto as shall be authorized by HUD (hereinafter all referred to as "Programs")."

Paragraph 5: "City Authority hereby further delegates and assigns to the County Authority any and all rights and privileges regarding negotiating amendments, extensions, modifications of all programs and to take all actions necessary, convenient or desirable to completely manage and administer the Programs subject to the provisions of the Agreement and to HUD rules, regulations and policies."

Policy:

For affordable housing projects which have been awarded PBVs under this Chapter, and which are located in the City of San Jose, the PBV units may be allocated to either the County MTW contract or the City MTW contract after considering the following criteria:

- The relative amount of City of San Jose versus County of Santa Clara investment, ownership, and service commitments to the project.
- The relative amount of available PBV program cap capacity, to avoid exhausting the applicable PBV program caps of either agency before the other.

16.2 LIMIT ON NUMBER OF PBV UNITS

HOTMA section 106(a)(2): “A PHA may project-base up to 20 percent of its Consolidated Annual Contributions Contract (ACC) authorized units. A PHA may project-base an additional 10 percent of its ACC authorized units above the 20 percent program limit, provided the additional units fall into one of the eligible exception categories: Homeless, units for Veterans, units offering Supportive Services, units in a census tract with a poverty rate of 20 percent or less.”

“A PHA may project-base an additional 10 percent of its ACC authorized units above the 20 percent program limit, provided the additional units fall into one of the eligible exception categories: homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons , or in a census tract with a poverty rate of 20 percent or less.”

24 CFR 983.56(a): “Except as provided in paragraph (b) of this section, the HA may not select a proposal to provide PBV assistance for units in a project or enter into an Agreement 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 is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project. (b): Exceptions to 25 percent per project cap: Units in a single family project, excepted units in a multifamily project. ‘Excepted’ units means units in a multifamily project that are specifically made available for elderly or disabled families or families receiving supportive services (at least one family member must be receiving at least one qualifying supportive service).”

MTW Plan:

The HA will “raise the PBV Program Cap to 40 percent of the Consolidated Annual Contributions Contract (CACC) authorized units, without requiring any special allocations or target populations for the PBVs. On an annual basis SCCHA [will] evaluate the previous year’s voucher turnover rate and the following year’s fiscal outlook to decide how many PBVs to allocate.”

“SCCHA proposes to allow more than 25% of the units in an existing building to be project-based in projects that serve families and provide services but that do not require participation in those services.”

Policy:

The HA will project base up to 40 percent of the CACC authorized units.

To be eligible for the service exception, a project must make supportive services available to the excepted unit. The family does not have to accept and receive the supportive service for the exception to apply to the unit. Supportive services include, but are not

limited to the following:

- Childcare
- Transportation
- Education
- Job training and employment counseling
- Substance/alcohol abuse treatment or counseling
- Household skill training
- Homeownership counseling

The services must be designed to help families achieve self-sufficiency or live in the community as independently as possible.

16.3 MODIFIED ELDERLY DEFINITION FOR PBV

SCCHA MTW Annual Plan FY2015, Activity 2015-3: SCCHA modified the age, “for the Project Based Voucher (PBV) program, at which a person or family is considered elderly from persons aged 62 or older to persons aged 55 or older in order to align with the definition used by a number of affordable housing developments in the area.”

Policy:

For PBV programs, SCCHA defines elderly families as those whose head of household or spouse is 55 years of age or older.

16.4 HOUSING AUTHORITY-MANAGED PROJECTS

24 CFR 983.51(e): “A HA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the [competitive] selection process and determines that the HA-owned units were appropriately selected based on the selection procedures specified in the HA administrative plan.”

MTW Plan:

“[The HA will] select SCCHA-owned housing projects for project-based assistance without a competitive process.”

Policy:

Housing projects (including public housing) managed by the HA may be selected for project-based assistance without competition and without HUD approval. The housing projects are still subject to certain other regulations, including Site and Neighborhood Standards, Environmental Review and Subsidy Layering Review.

All other PBV projects will be submitted and selected by a competitive selection process

described in 16.5 of this chapter.

16.5 **PROJECT SELECTION PROCEDURES**

24 CFR 983.51(a): “The HA administrative plan must describe the procedures for owner submission of PBV proposals and for HA selection of PBV proposals.”

24 CFR 983.51(b)(2): “The PHA may select, without competition, a proposal for housing assisted under a federal, State, or local government housing assistance, community development, or supportive services program that required competitive selection of proposals (e.g., HOME, and units for which competitively awarded Low-Income Housing Tax Credits (LIHTCs) have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within 3 years of the PBV proposal selection date, and the earlier competitively selected housing assistance proposal did not involve any consideration that the project would receive PBV assistance.”

MTW Plan:

[The HA will] “eliminate certain requirements in selecting Project-Based Voucher (PBV) proposals by expanding the definition of a competitive selection process to include any form of open public solicitation or invitation process conducted by a Federal, State, or local government, where a proposal is selected subject to funding availability; waiving HUD’s requirements that the PHA must select proposals within three years of the earlier selection date by allowing proposals within fifteen years of the selection date; and allowing earlier competitive selection proposals to consider that the project would require rental assistance, including PBV assistance.”

Policy:

The HA will select non-Housing Authority owned projects through a competitive or streamlined selection process.

Competitive Selection Process

The HA will issue a Request for Proposal.

Streamlined Selection Process

The HA may award Project-Based Vouchers (PBVs) to projects that were previously awarded funding or considered for funding for PBVs through a competitive selection, open public solicitation or invitation process under another federal, state or local housing program within 15 years of the PBV proposal selection date.

Solicitation Requirements, Proposal Evaluation Criteria and Selection Process

The following section applies to both competitive and streamlined selection processes.

The HA will describe the requirements of the solicitation, which may include, but are not limited to:

- Number of PBVs being made available;
- Submission deadline, if applicable;
- Required format of proposals;
- Required submission format (mail, fax, e-mail, etc.);
- Housing type (new construction, rehab, existing);
- Resident type (senior, family, etc.);
- Minimum/maximum PBV units in project;
- Term of Housing Assistance Payment contract; and
- Other special requirements, i.e., labor standards/Davis Bacon requirements, environmental review, and Housing Quality Standards requirements.

The HA may provide PBV assistance only to existing, rehabilitated or new construction housing developments as defined by HUD regulation 24 CFR §983.3 and in accordance with all other HUD Section 8 regulations. If a proposal is for existing or rehabilitation housing, the units to be project based must:

- Be newly permanent affordable housing (conversion of market rate housing or conversion of non-permanent affordable housing to permanent affordable housing);
- Be vacant or currently occupied by families who are earning less than 50 percent of the Area Median Income adjusted by household size; and
- Not have other federal, state or local housing restrictions and regulatory agreements that conflict with the HUD Section 8 regulations or HA policies.

Each proposal received must meet the following project readiness requirements:

- Proposer must submit evidence of site control – site control means that the proposer has obtained an enforceable right to use a parcel of land for the proposed development prior to the submission of the proposal. This right may consist of fee title, ground lease, or an enforceable option;
- Proposer must submit evidence that the proposed construction is permitted by current zoning ordinances or regulations at the time of the proposal submission;
- Proposer must demonstrate the capacity to secure all necessary funding for development within 12 months of the selection date for PBVs;
- Proposer of new housing construction or rehabilitation housing must be able to execute an Agreement to enter into Housing Assistance Payments (AHAP) and start construction within 18 months of the selection date for PBVs; and
- Proposer of existing housing project must demonstrate that the units will be ready for occupancy within 120 days of the selection date for PBVs.

Projects that meet the project readiness requirements will be further evaluated for consideration of the conditional award of PBVs using evaluation factors, which may include, but are not limited to:

- Financial feasibility of the project;
- Supportive services;
- Tenant selection criteria;
- Leveraging of private and other governmental funding;
- Experience of proposer;
- New or increased supportive services and/or amenities for existing housing;
- De-concentration of poverty; and
- Proximity/accessibility to educational and economic advancement opportunities.

The HA may consider other factors such as, geographical distribution of the PBVs and sizes of units in making the final determination for conditional award of PBVs.

All projects are subject to the HA's financial analysis through a Project Based Voucher (PBV) underwriting tool. Staff will use the underwriting tool to determine if the requested number of vouchers is correct given the project's overall operating expenses and needs. The analysis will establish how much of a project's budget should go towards paying debt considering what is needed for property management, resident services and maintenance. Results of the financial analysis will be used to determine the right size of the voucher award.

The HA will only award Section 8 PBVs to units which have an underlying regulatory agreement with maximum income limits at 50 percent of Area Median Income or lower.

The HA will manage and issue its Project Based Vouchers as necessary in order to increase the number of units available for extremely low-income families by attaching PBVs to units that have an underlying regulatory agreement with maximum income limits at 30 percent of Area Median Income or lower.

The HA will manage and issue its Project Based Vouchers as necessary to increase the number of units available for families of three or more persons.

The HA will make a minimum of 300 Project Based Vouchers available for award each calendar year, subject to the 95% maximum funding utilization policy (Administrative Plan Section 1.3) and HA staff projections of leasing, voucher, and funding availability.

Public Notice of Selected Proposals

The HA will publish a public notice of selected proposals within 30 days of initial selection.

Conditional Award of PBVs

The HA will conditionally award PBVs for selected new construction or rehabilitation projects pending the completion of the subsidy layering review. If a new project is not ready to enter into an Agreement to enter Housing Assistance Payment (AHAP) Contract within 18 months of the conditional award, the Housing Authority will request information from the developer regarding the delays. The HA may extend the conditional award in 6-month increments or may rescind the conditional award, depending on whether the delay was avoidable. All requests will be decided on a case-by-case basis.

16.6 SITE SELECTION STANDARDS

24 CFR 983.57(b)(1): “Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the HA Administrative Plan.”

Policy:

In determining if a project meets the goal of deconcentrating poverty and expanding housing and economic opportunities, certain conditions of the census tract and general area where the site is located will be considered, including:

- Poverty rate: The HA will not select a project for PBV if it is located in an area with a poverty rate greater than 20% unless at least two of the following conditions are present:
 - There has been an overall decline in the poverty rate for the area over the past five years; and/or
 - New market rate units have been/are being developed in the same census tract where the proposed PBV development will be located and it is likely that those units will positively impact the poverty rate in the area; and/or
 - The area in which the proposed PBV development will be located is undergoing significant revitalization.
- Economic/educational opportunities: Projects selected for PBV must be located in an area where there are, within a reasonable traveling distance, meaningful opportunities for educational and economic advancement.
- Educational opportunity includes adult education, vocational school, state or community college.
- Economic advancement opportunities include retail and other businesses offering entry-level job opportunities.
- Prior to selection of any project for PBV, the HA will conduct the following site inspections: General site inspection.
- Unit inspection (rehabilitation and existing only).
- Site and Neighborhood Standards review per HUD regulations at 24 CFR 983.57.

16.7 HAP CONTRACT

82 Federal Register 5458 (January 18, 2017): “A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 20 years.”

82 Federal Register 5458 (January 18, 2017): “The PHA may agree to enter into an extension (at the time of the initial HAP contract execution or at any time before the expiration of the contract), for an additional term of up to 20 years. A HAP contract extension may not exceed 20 years.”

Policy:

All HAP contract terms under the PBV program will be agreed upon between the owner and the HA up to a maximum term of 20 years, with the option to extend for an additional period(s) of up to 20 years at the discretion of the HA.

85 Federal Register 12001 (February 28, 2020): “HUD will require adjustments to PBV assistance, if the projected Debt Coverage Ratio exceeds the maximum of 1.45 in any one year and continues to remain above 1.45 for a series of subsequent years...If in any given year the annual cash flow is greater than 10% of total operating expenses and it remains above 10%, it is assumed the cash generated from the government assistance is greater than is necessary to make the project feasible. Therefore, adjustments must be made by the project owner to reduce cash flow to 10%, or less of operating expenses. If the owner declines, HUD will reduce PBV rents or the number of PBVs, so the project complies with the 10% requirement.”

Policy:

Owners requesting a HAP Contract renewal will be subject to financial analysis by the HA through a Project Based Voucher (PBV) underwriting tool. If the analysis reveals the debt coverage ratio is above 1.45 or the cash flow is above 10% of total operating expenses, PBV assistance will be adjusted according to the following: for occupied units, the HA will reduce the amount of PBV rents so the project is in compliance with the debt coverage ratio and cash flow requirements; for unoccupied units, the HA will work with the owner to either reduce the amount of PBV rent and/or reduce the number of PBV units so the project is in compliance with the debt coverage ratio and the cash flow requirements.

HOTMA Section 106(a)(4): “The agency and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term there or without being subject to any additional competitive selection procedures.”

Policy:

The HA may add units to a HAP contract for projects that provide housing for special needs

populations, which may include, but are not limited to:

- Disabled
- Elderly
- Large Families
- Homeless
- Transition-Age Youth

The HA will also consider adding units to a HAP contract located in areas of Santa Clara County where there is a limited supply of Project Based Vouchers or affordable housing.

24 CFR 983.211(a): Units occupied by families whose income has increased during their tenancy resulting in the tenant rent equalizing the rent to the owner, shall be removed from the HAP Contract 180 days following the last housing assistance payment on behalf of the family.

Policy:

The HA will remove units from the HAP contract occupied by families whose tenant rent equals the PBV contract rent 180 days following the last HAP payment.

(b): If the project is fully assisted, a PHA may reinstate the unit removed under paragraph (a) of this section to the HAP contract after the ineligible family vacates the property. If the project is partially assisted, a PHA may substitute a different unit for the unit removed under paragraph (a) of this section to the HAP contract when the first eligible substitute becomes available.”

Policy:

If the project is 100% project based, the HA will reinstate the removed unit upon owner request once the unit is vacant.

If the project is partially assisted, the HA will substitute a different vacant unit of the same bedroom size for the removed unit upon the owner’s request and within a 90-day time period.

24 CFR 983.254(b): “If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the HA to fill such vacancies), the HA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.”

Policy:

If a PBV contract unit remains vacant or occupied by an HA unauthorized resident for 4

months or longer, the HA may remove that unit from the contract, thereby reducing the total number of units under contract.

16.8 RENT DETERMINATION

24 CFR 983.301(b): “Except for certain tax credit units, the rent to owner must not exceed the lowest of: (1) An amount determined by the HA, not to exceed 110% of the applicable fair market rent for the unit bedroom size minus any utility allowance; (2) the reasonable rent; or (3) the rent requested by the owner.”

24 CFR 983.302(c)(2): “If the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP contract, except:

- (i) To correct errors in calculations in accordance with HUD requirements;
- (ii) If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to §983.55; or
- (iii) If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and tenant.”

Policy:

The HA will not reduce the contract rent below the initial rent for any units under the initial HAP Contract, in accordance with 24 CFR §983.302(c)(2).

16.9 INSPECTIONS

24 CFR 983.103(d): “(1) At least biennially 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. (2) If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA must re-inspect 100 percent of the contract units in the building.”

24 CFR 983.103(f): “(1) In the case of PHA-owned units, the inspections required under this section must be performed by an independent agency designated in accordance with §983.59, rather than by the PHA. (2) The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located.

MTW Plan: This activity “eliminates the need to furnish copies of each inspection report [of PHA-owned properties/units] to the HUD field office.”

Policy:

The HA will inspect 100% of PBV units at least biennially.

16.10 PARTICIPANT SELECTION

983.253(b): “Leasing of contract units. *Size of unit.* The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.”

983.255(b): “Tenant screening. *Owner responsibility.* (1) The owner is responsible for screening and selection of the family to occupy the owner's unit. (2) The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

(i) Payment of rent and utility bills;

(ii) Caring for a unit and premises;

(iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(iv) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(v) Compliance with other essential conditions of tenancy.”

24 CFR 983.251(b)(2): “In order to minimize displacement of in-place families, if a unit to be placed under contract is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the PHA’s waiting list and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project.”

MTW Plan:

“When PBV assistance is layered with 50% tax-exempt bonds, the lower income limits apply. Therefore, SCCHA [will] waive the PBV regulation related to preference for in-place families in order to allow for the continued commitment of tax-exempt bonds and tax credits to the disposed public housing properties.”

24 CFR 983.251(c)(1): “Applicants who will occupy PBV units must be selected by the PHA from the PHA waiting list. The PHA must select applicants from the waiting list in accordance with the policies in the PHA administrative plan.”

MTW Plan:

“[The HA] allows direct owner referrals of applicants after 30 days of unsuccessful attempts by the owner to process referrals from the HA’s project-based applicant

waiting list.”

Policy:

The HA’s guidelines for the PBV unit size a family is eligible for is as follows:

<u>Unit Size</u>	<u>Number in the Household</u>
Single Room Occupancy	1 Person
Studio	1 to 2 Persons
One Bedroom	1 to 2 Persons
Two Bedrooms	3 to 4 Persons
Three Bedrooms	5 to 6 Persons
Four Bedrooms	7 to 8 Persons

If an applicant is not eligible for the PBV unit due to their subsidy size, they will be inactivated from the property voucher interest lists. The applicant must reactivate themselves on the interest lists to be considered for additional opportunities for a property voucher (PBV rental unit).

If an applicant is denied PBV assistance based on the property owner’s tenant screening and selection criteria, the applicant would be determined ineligible for the property by the Housing Authority and inactivated from the property voucher interest lists. The applicant must reactivate themselves on the interest lists to be considered for additional opportunities for a property voucher (PBV rental unit).

The HA will refer applicants from the HA’s PBV interest list for a period of 30 days following notification of the PBV unit vacancy/impending vacancy. PBV owners may make their own referral of an applicant if they are unsuccessful in finding an interested, eligible applicant from the HA’s interest list during the 30-day referral period.

For newly constructed projects, PBV owners may make their own referral of an applicant if they are unsuccessful in finding an interested, eligible applicant from the HA’s interest list, beginning 30 days after the HA refers initial applicants.

Owners must have an affirmative fair-housing marketing plan on file with the HA to make direct referrals of applicants.

Owners are responsible for screening all applicants referred to them for tenancy suitability.

In-place families with income over 50% of the current Area Median Income (AMI) for the family size, but less than 80% of the AMI will be considered ineligible for PBV assistance at the HA’s public housing properties that are transitioning to private non-profit housing under a PBV Housing Assistance Payment contract. Such families will be issued Section 8 Housing Choice Vouchers and will be required to move from the property before the start

of the PBV contract.

16.11 INITIAL ELIGIBILITY

24 CFR 983.251(a)(2): “Except for voucher participants (determined eligible at original admission to the voucher program), the PHA may only select families determined eligible for admission at commencement of PBV assistance.”

~~MTW Plan:~~

~~“For project-based units that also utilize LIHTC (Low Income Housing Tax Credits), [the HA may] use the TIC (Tenant Income Certification) form required under the LIHTC program as verification of the income and assets.”~~

24 CFR 5.609(c)(3): “Use of other programs’ determination of income. (i) The PHA or owner may, using the verification methods in paragraph (c)(3)(ii) of this section, determine the family’s income prior to the application of any deductions applied in accordance with § 5.611 based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:

(A) The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, *et seq.*).

(B) Medicaid (42 U.S.C. 1396 *et seq.*).

(C) The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 *et seq.*).

(D) The Earned Income Tax Credit (26 U.S.C. 32).

(E) The Low-Income Housing Credit (26 U.S.C. 42).

(F) The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).

(G) Supplemental Security Income (42 U.S.C. 1381 *et seq.*).

(H) Other programs administered by the Secretary.

(I) Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.

(J) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register.”

Policy:

The HA will use the Tenant Income Certification (TIC) form provided by the PBV owner to verify the income and assets for applicants referred to fill [Low-Income Housing Tax Credit \(LIHTC\)](#)-subsidized PBV units.

[If multiple TIC forms are provided, the HA will use the most recent one.](#)

16.12 LEASE AND OCCUPANCY

24 CFR 983.352(b)(1): “At the discretion of the HA, the HAP contract may provide for vacancy payments to the owner for a HA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.”

24 CFR 983.260(a): “The family may terminate the assisted lease at any time after the first year of occupancy. (b): If the family has elected to terminate the lease in this manner, the HA must offer the family the opportunity for tenant-based rental assistance. (c) If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family’s lease of a PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based rental assistance. (d): If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.”

MTW Plan: The HA “requires a minimum two-year stay for Project-Based Voucher (PBV) residents before they are eligible to receive a tenant-based voucher or HCV.”

“Each month that SCCHA selects applicants from its HCV waiting list to potentially provide voucher assistance, it will commit vouchers for PBV [tenants requesting to move with continued tenant-based assistance] that will equal ten percent of the prorated monthly number of vouchers it plans to issue.” “When the [ten percent] quota is met, PBV tenants will be notified that they can move from the PBV unit or remain in place but cannot be provided an HCV until the next calendar year.”

Policy:

The following lease and occupancy rules will apply for all PBV units:

- Vacancy payments (calculated based on 80% of the last PBV tenant’s contract rent amount) may be made for up to 30 days for vacant PBV units provided the vacancy is not the owner’s fault and the owner gave prompt notice to the HA of the vacancy.
- Vacancy payments (calculated based on 80% of the last PBV tenant’s contract rent amount) may be made for up to 60 days for vacant PBV units designated for disabled and chronically homeless populations provided the vacancy is not the owner’s fault and the owner gave prompt notice to the HA of the vacancy.
- If a family remains in a PBV unit for two full years and requests to terminate their

- lease, the HA will offer the family a tenant-based Housing Choice Voucher, if available.
- If a tenant-based Housing Choice Voucher isn't available, the family will be placed on a priority tenant-based Housing Choice Voucher waiting list on a first-come-first-serve basis.
 - The two-year minimum stay and the ten percent quota requirements do not apply to VASH-PBV families.
 - The two-year minimum stay and the ten percent quota requirements may be waived, and the family may be eligible for a Housing Choice Voucher, in the following circumstances: an approved reasonable accommodation that requires a tenant to move, when the PBV unit is declared uninhabitable, or VAWA cases.

16.13 OVER OCCUPIED AND UNDER OCCUPIED UNITS

24 CFR 983.260(a): “The PHA subsidy standards determine the appropriate unit size for the family size and composition. If the PHA determines that a family is occupying a: (1) Wrong size unit, or (2) Unit with accessibility features, the PHA must promptly notify the family and the owner of this determination, and of the PHA’s offer of continued assistance in another unit...”

MTW Plan:

“If a family receiving Project Based Voucher assistance is over-housed or under-housed but not in violation of Housing Quality Standards (HQS) space standards, the family may remain in the wrong sized unit if the rental market vacancy rate is below five percent until (1) an appropriate sized unit becomes available at the project; or (2) the family requests a tenant based voucher, whichever occurs first. Families in violation of HQS space standards will not be allowed to remain in a wrong-sized unit and will receive a 90-day notice to move to a right-sized unit.”

Policy:

In cases where a PBV unit becomes overcrowded or under-occupied,

- The current owner must offer the residing family a suitable and appropriately sized vacant PBV unit within the property, if such vacancies exist.
- If no such vacancy exists and the rental market vacancy rate is 5 percent or above, SCCHA will issue a tenant-based Housing Choice Voucher, if available.
- If no such vacancy exists and the rental market vacancy rate is below 5 percent, the family may remain in the wrong sized unit until the vacancy rate rises to 5 percent or above.
- Families in violation of the HQS space standards will be given a 90-day notice to move to the right-sized unit, regardless of rental market vacancy rate.

24 CFR 983.260(b)(1): “If the family is occupying a wrong size unit or unit with accessibility features that the family does not require, and the unit is needed by a family

that requires the accessibility features, the HA must offer the family the opportunity to receive continued housing assistance in another unit. (2): The HA policy of such continued housing assistance must be stated in the administrative plan.”

Policy:

The HA will notify the family and owner if it is determined that a family is occupying a unit with accessibility features that are not needed or lack of accessibility feature that is needed by the tenant. Continued assistance will be offered in the order stated below:

- The current owner must offer the residing family a suitable and appropriately sized vacant PBV unit within the property, if such vacancies exist.
- Issue a tenant-based Housing Choice Voucher, if available.

CHAPTER 17. MODERATE REHABILITATION PROGRAM

17.0 INTRODUCTION

The Moderate Rehabilitation program attaches rental assistance to a particular unit rather than to a family (as with tenant-based rental assistance). The program was repealed in 1991 and no new projects are authorized for development. Assistance is limited to properties previously rehabilitated pursuant to a housing assistance payments (HAP) contract between an owner and the Housing Authority. The Moderate Rehabilitation program is not a Moving to Work (MTW) program.

17.1 UNIT VACANCIES

24 CFR 882.514(b): “When vacancies occur, the PHA will refer to the Owner one or more appropriate size families on its waiting list.”

Policy:

The HA’s guidelines for the unit size a family is eligible for under the Moderate Rehabilitation Program is as follows:

<u>Unit Size</u>	<u>Number in the Household</u>
Single Room Occupancy	1 Person
Studio	1 to 2 Persons
One Bedroom	1 to 2 Persons
Two Bedrooms	3 to 4 Persons
Three Bedrooms	5 to 6 Persons
Four Bedrooms	7 to 8 Persons

The HA will refer families matching the appropriate bedroom size to the owner from the site-based Moderate Rehabilitation interest list to fill the vacancy.

Applicants Registered on the Interest Lists Opened 2020: If an applicant is not eligible for the Moderate Rehabilitation unit due to their subsidy size, they will be inactivated from the property voucher interest lists. The applicant must reactivate themselves on the interest lists to be considered for additional opportunities for a property voucher (Moderate Rehabilitation rental unit).

Should the HA fail to provide sufficient eligible families to fill a vacancy within 30 days of the owner's notification to the HA of a vacancy, the owner may solicit applications from low-income families and refer such families to the HA to determine eligibility.

The family’s placement and eligibility on any other HA waiting list will not be affected if

the family is housed under the Moderate Rehabilitation program.

17.2 PARTICIPANT SELECTION

24 CFR 882.514(c): “Since the Owner is responsible for tenant selection, the Owner may refuse any family, provided that the Owner does not unlawfully discriminate. However, the owner must not deny program assistance or admission to an applicant based on the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for assistance or admission.”

Policy:

Applicants Registered on the Interest Lists Opened 2020: If an applicant is denied Moderate Rehabilitation assistance based on the property owner’s tenant screening and selection criteria, the applicant would be determined ineligible for the property by the Housing Authority and inactivated from the property voucher interest lists. The applicant must reactivate themselves on the interest lists to be considered for additional opportunities for a property voucher (Moderate Rehabilitation rental unit).

17.3 INITIAL ELIGIBILITY

24 CFR 882.514(a): “Initial determination of family eligibility. (1) The PHA is responsible for receipt and review of application, and determination of family eligibility for participation in accordance with HUD regulations (see 24 CFR parts 5, 750 and 760).”

Policy:

The owner must lease all units under contract with the Moderate Rehabilitation program to eligible families.

An eligible family must be briefed on the Moderate Rehabilitation program and must sign a ‘Moderate Rehabilitation Program Statement of Family Responsibility’.

An otherwise eligible family whose monthly Housing Assistance Payments are \$0, will be allowed to occupy a rehabilitated unit for the remaining period of the owner's contract with the HA, unless the family is evicted for cause or the family's size changes or the HA determines that the family must move to satisfy Housing Quality Standards (HQS) requirements.

17.4 CONTINUED ELIGIBILITY

24 CFR 882.515(a): “Regular reexaminations. The PHA must reexamine the income and composition of all families at least once every 12 months. The PHA must adjust Tenant

Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment.”

24 CFR 882.516(b): “Periodic inspection. In addition to the inspections required prior to execution of the Contract, the PHA must inspect or cause to be inspected each dwelling unit under Contract at least annually and at such other times as may be necessary to assure that the Owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services.”

Policy:

Moderate Rehabilitation families will follow the regular and interim reexamination and inspection policies for non-MTW families as described elsewhere in this Administrative Plan.

17.5 LEASE AND OCCUPANCY

24 CFR 882.411(b)(1): “If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner may receive the housing assistance payments due under the Contract for so much of the month in which the Family vacates the unit as the unit remains vacant. Should the unit continue to remain vacant, the Owner may receive from the PHA a housing assistance payment in the amount of 80 percent of the contract Rent for a vacancy period not exceeding an additional month. However, if the Owner collects any of the Family’s share of the rent for this period, the payment must be reduced to an amount which, when added to the Family’s payment, does not exceed 80 percent of the Contract Rent. The Owner will not be entitled to any payment under this paragraph (b)(1) of this section unless the Owner: (i) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, and (ii) has taken and continues to take all feasible actions specified in paragraphs (a)(2) and (3) of this section.”

Policy:

Vacancy payments (calculated based on 80% of the last Moderate Rehabilitation tenant’s contract rent amount) may be made for up to 30 days for vacant Moderate Rehabilitation units provided the vacancy is not the owner’s fault, the owner gave prompt notice to the HA of the vacancy, and the Owner has taken and continues to take all feasible actions to fill the vacancy.

17.6 OVER CROWDED AND UNDER OCCUPIED UNITS

24 CFR 882.509: “If the PHA determines that a Contract unit is not decent, safe, and sanitary by reason of increase in Family size, or that a Contract unit is larger than

appropriate for the size of the Family in occupancy, housing assistance payments with respect to the unit will not be abated; however, the Owner must offer the Family a suitable alternative unit should one be available and the Family will be required to move. If the Owner does not have a suitable available unit, the PHA must assist the Family in locating other standard housing in the locality within the Family's ability to pay and require the Family to move to such a unit as soon as possible.”

Policy:

The HA will provide continued assistance to a family residing in a Moderate Rehabilitation unit who is being forced to move through no fault of their own, such as an increase or decrease in family size, provided the family is otherwise eligible to continue receiving housing assistance. The HA will also provide continued assistance for families needing a reasonable accommodation for an accessible unit due to current unit not meeting participants' needs. Assistance will be provided in the order stated below:

- The current owner must offer the participants a suitable and appropriately sized vacant Moderate Rehabilitation unit, if such vacancies exist.
- The HA will provide a tenant-based Housing Choice Voucher, if available.

17.7 MINIMUM RENT

24 CFR 5.630(a)(1): “The PHA must charge a family no less than a minimum monthly rent established by the [PHA]...(2) For the...section 8 moderate rehabilitation and...voucher programs, the PHA may establish a minimum rent of up to \$50.”

Policy:

For the Moderate Rehabilitation Program, the HA has established a minimum rent of \$0.

CHAPTER 18. GLOSSARY

1937 Act: The Housing Act of 1937 C 42 U.S.C. 1437 et seq.

Absorption: In portability (under subpart H of this part 982): the point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family. The receiving HA uses funds available under the receiving HA consolidated ACC.

Accessible: the facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps (see Persons with Disabilities).

Adjusted Income: gross income minus allowable HUD (see Housing and Urban Development) deductions for purposes of calculating the applicant or participant's rent.

Administrative fee reserve: an account established by the Housing Authority (HA) from excess administrative fee income.

Administrative Plan: a description of HA policies for administration of the tenant-based and project-based programs. The Administrative Plan and any revisions must be approved by the HA Board and included as a supporting document to the HA Annual MTW Plan.

Admission: the point when the applicant family becomes a participant family in the program. The date used for this purpose is the effective date of the first housing assistance Payment (HAP) contract (see Housing Assistance Payment) for a participant family (first day of initial lease term) in the program.

Annual contributions contract (ACC): the written contract between HUD (see Housing and Urban Development) and the HA (see Housing Authority) under which HUD agrees to provide funding for a program under the 1937 Act, and the HA agrees to comply with HUD requirements for the program.

Annual Income: All amounts, not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD. ~~the anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.~~

Applicant (applicant family): a family that has applied for admission to a program but is not yet a participant in the program.

Briefing: when an applicant family is accepted by the HA (see Housing Authority) into the HCV Program (see Housing Choice Voucher), the family must attend a meeting explaining how the Program works, family responsibilities, and where the family may lease a unit.

Child care expenses: reasonable child care expenses for the care of a child ~~age 12 or~~ under 13 years of age may be deducted from "annual (gross) income" if the expenses enable an adult family member to seek employment actively, be gainfully employed, or further his/her education, and if the expenses are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Chronically Homeless: A homeless individual or family that has been continually homeless for one year or more or that has had at least four episodes of homelessness during the past three years.

Citizen: a citizen or national of the United States.

Code of Federal Regulations (CFR): an annual publication which contains the cumulative executive agency regulations. The CFR is the compilation of Federal rules which are first published in the Federal Register (see Federal Register) and define and implement a statute.

Co-head: an individual in the household who is equally responsible for the lease and compliance with the family obligations, with the head-of-household (see Head-of-Household). A family may have a co-head or spouse, but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Computerized random selection: an applicant on the waiting list has been assigned a position number on the waiting list determined by a computer software program.

Consent form: any consent form approved by HUD (see Housing and Urban Development) or the Housing Authority to be signed by adult applicant family members and adult participant family members. This authorization allows the HA to obtain wage and income information, including accessing information through the EIV/UIV database (see Enterprise Income Verification/Upfront Income Verification).

Continuously assisted: an applicant is continuously assisted if the family is already receiving assistance under another 1937 Housing Act housing assistance program when the family is admitted to the HCV program (see Housing Choice Voucher).

Contract: (See Housing Assistance Payments Contract.)

Cooperative (term includes mutual housing): housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see 24 CFR 982.619.

Dependent: a member of the family (except foster children and foster adults) other than the family head-of-household (see head-of-household) or spouse, who is under 18 years of age (except for emancipated minor), or is a person with a disability, or is a full-time student.

Disability assistance expenses: reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family: a family whose head-of-household, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides, is qualified as disabled family.

Disabled person: see Persons with Disabilities.

Displaced family: a family or individual who must move out of the assisted unit as a direct result of rehabilitation, demolition or acquisition for a project in which Federal funds are used is considered a displaced family.

Drug-related criminal activity: the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. (Read Family Obligations, Form #10780 for complete list of housing assistance program requirements.)

Elderly family: a family whose head-of-household, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Eligible Family (Family): a family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR, for participation in housing assistance programs.

Evidence of citizenship or eligible immigration status: the official documents which must be submitted to evidence citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Excepted Units: any units in a multifamily building providing project-based vouchers that are specifically made available for elderly or disabled families, or families receiving supportive services.

Enterprise Income Verification, (EIV)/Upfront Income Verification (UIV): computerized access to wage and other income information; is the highest form of income verification, when available.

Fair Housing: consideration and compliance under Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR): the rent, including the cost of the utilities (except telephone and cable), as established by HUD (see Housing and Urban Development) for units of varying sizes (by

number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888. (See Federal Register)

Family: a family may be a single person or a group of persons. The family includes but is not limited to a family with or without children, an elderly family or a near-elderly family, a displaced family, a single person who is not an elderly or displaced person, ~~or~~ a person with disabilities, [an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days and is homeless or is at risk of becoming homeless at age 16 or older](#), or the remaining member of a participant family.

Family Self Sufficiency (FSS): the program established by a Public Housing Authority (PHA) to promote self-sufficiency of assisted families, including the provision of supportive services.

Family share: the amount calculated by subtracting the housing assistance payment from the gross rent; the portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size: the appropriate number of subsidized bedrooms for a family, as determined by the HA under the HA subsidy standards.

Federal Register (FR): is the official journal of the United States Government that contains most routine publications and public notices of government agencies. It is a daily (except holidays) publication.

~~**Foster Child/Foster Adult:** a minor who has been removed from parental care and placed under the jurisdiction of the Dependency System or an adult, usually a person with disabilities, unable to live alone and placed under the jurisdiction of the Dependency System. The foster family has been approved by the County Department of Family and Children Services. Appointed agencies administer payments to families who care for foster children/foster adults until final disposition of the placement is decided. (Not included as income when calculating participant's share of the rent.)~~

Foster Adult: A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster Child: A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Full-time Student: a person who is attending school or vocational training on a full-time basis.

Full-time status is determined by the educational institution. (CFR 5.603)

Gross rent: the contract rent plus any utility allowance.

Group home: a dwelling unit that is licensed by the State as a group home for the exclusive residential use of two to twelve persons who are elderly and/or persons with disabilities (including an authorized live-in aide). A group home is categorized as a special housing type. (See 24 CFR 982.610 to 982.614.)

Guest: a person temporarily staying in the assisted unit, with the consent of the participant family, for no more than 30 cumulative days in any one year.

HAP: Housing Assistance Payments.

HA Plan: the MTW Plan and non-MTW Annual Plan as adopted by the HA and approved by HUD. (See Housing Authority and/or Housing and Urban Development)

Head-of-household: the adult member of the family who is the head of the household for purposes of determining income eligibility and rent. The head-of-household is responsible for ensuring that all adult family members are compliant to each item on the Family Obligations form. This form is signed by all adult family members at intake and each regularly scheduled reexamination.

Health and medical care expenses: Health and medical care expenses incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body and medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 10% of annual income.

Hierarchy of Verification: Confirmation of applicant or participant information must be verified by the Housing Authority, and is accessed in order from the most reliable to the least reliable sources.

Household Member: any person authorized by the HA to live in the assisted unit, including foster children, foster adults, and/or live-in aide. These individuals are not members of the family. (See foster child, foster adults and/or live-in aide)

Housing Assistance Payment (HAP): a written contract established between the HA and an owner of the complex/unit for the purpose of providing HAP to the owner on behalf of an eligible family, which could include:

- A payment to the owner for rent to the owner under the family's lease; and
- An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing Authority (HA): a State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. For purposes of this Administrative Plan, the “HA” is the Santa Clara County Housing Authority (SCCHA) and the Housing Authority of the City of San José (HACSJ), doing business as SCCHA.

Housing Choice Voucher Program (HCV also known as Section 8): a government subsidized housing program administered by local public housing agencies through which income-qualified participants can use government subsidies to reside at any project which meets certain qualifications. Government subsidies pay the housing unit owner the difference between what the qualified household pays and the established Payment Standard. (See Payment Standard)

Housing Quality Standards (HQS): minimum quality standards for housing assisted under the HCV Program. HUD’s performance and acceptability criteria for HCV assisted housing are provided in 24 CFR 982.401.

HUD: the United States Department of Housing and Urban Development. The primary agency for sponsoring subsidized housing in the United States, particularly in urban areas.

Imputed Asset Income: ~~HUD passbook rate (variable) is used in calculation of total cash value of assets when assets exceed \$50,000.~~ The imputed income for the asset (based on current passbook savings rate) is used when it is not possible to calculate actual returns on the asset, and the family’s total net assets are over \$50,000 (adjusted annually for inflation).

Imputed Welfare Income: this income is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family’s annual income and therefore reflected in the calculation to determine the family’s rental contribution.

Income Eligibility: the applicant family’s total household income must not exceed income limits established by HUD.

Interest Lists: The Housing Authority administers permanently open interest lists. Families who wish to be considered for any of the Housing Authority’s federally funded rental assistance programs must register on its interest lists.

Jurisdiction: the area in which the HA has authority under State and local law to administer the program. (Authorized areas for purposes of this Plan are Santa Clara County and the City of San Jose.)

KinGAP: California payment program designed to support foster children who have been placed in long-term foster-care with a relative caregiver. The program provides relative caregivers who are either unable or unwilling to adopt the child with another option for caring for the child in a permanent placement in the relative’s home. Children in foster care are eligible for monthly foster care maintenance payments, as well as other social support services. These payments are **not** included when calculating a family’s income.

Landlord: either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

Lease: a written agreement between an owner and a participant family for the leasing of a dwelling unit. The lease establishes the conditions for occupancy of the dwelling unit by a participant family with establishment of a HAP contract between the owner and the HA.

Limited English Proficiency (LEP): a person, who, as a result of national origin, does not speak, read or write English as their primary language. The HA must take reasonable steps to meet their regulatory and statutory obligations to ensure that LEP persons have meaningful access to HUD programs and activities.

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

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the financial support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.
- This person is **not** considered a member of the family and is **not** subject to income verification.
- This person must sign an authorization form which allows the HA to run a criminal background check.

Local Preference: a preference used by the HA to select among applicant families.

Low Income: a family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home: a manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (Considered a special housing type.)

Manufactured home space: a manufactured home owned and occupied by the family is located on space leased by an owner to a family.

~~**Medical expenses:** any medical expenses incurred by elderly or disabled families in excess of 3% of income calculated for regularly scheduled reexamination purposes, which are not reimbursable from any other source.~~

Minor: a member of the family household other than the family head-of-household or spouse, who is under 18 years of age. (An emancipated minor is an exception to the under 18 years of age rule.)

Minimum Rent: the minimum rent a tenant must pay under a HUD-subsidized housing program; the HA has set the minimum rent amount at \$50.00.

Mixed Family: a family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b) (3).

Moderate Rehabilitation Program: The moderate rehabilitation program provides project-based rental assistance for low income families. The program was repealed in 1991 and no new projects are authorized for development.

Monthly adjusted income: amount of income that may be used in determining applicant or participant's portion of the rent.

National: a person who owes permanent allegiance to the United States; for example, as a result of birth in a United States territory or possession.

Near-elderly family: a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides. (See live-in aide)

Non-citizen: a person who is neither a citizen nor national of the United States. (See Citizen)

Other criminal activity: criminal activity which may threaten the health or safety of the owner, property management staff, any HA employee, residents of the complex, or person residing in the immediate vicinity of the premises. (Read Family Obligations, Form #10780, for complete list of housing assistance program requirements.)

Owner: any person or entity with the legal right to lease or sublease a unit to a participant family.

Participant (participant family): the adult person or persons who execute the lease as lessee of the dwelling unit. The family becomes a participant on the effective date of the first HAP (see housing assistance payment) contract executed by the HA for the participant family (first day of initial lease term).

Payment standard (PS): a guide to set the rent portion for participant families in the Section 8 HCV Program and certain other programs; published annually in October.

Persons with Disabilities: HUD's definition of a person with disabilities is a "Person [who] meets the Social Security Administration definition of a person with disabilities. Person has a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration, subsequently impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved with more suitable housing conditions.

For purposes of reasonable accommodation (see reasonable accommodation) and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

Port-out: the renting of a dwelling unit with Section 8 HCV outside the jurisdiction of the initial HA.

Premises: the building or complex in which the dwelling unit is located, including common areas and grounds.

Preponderance of evidence: that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it, or evidence which as a whole shows the fact to be proved to be more probable than not.

Project-Based Voucher (PBV): the PBV program attaches rental assistance to a particular unit rather than to a family.

Project owner: the person or entity that owns the housing project containing the assisted dwelling unit(s).

Privacy Rights: the Privacy Act of 1974 (5 U.S.C.A. 552a) is a federal law that places restrictions on the federal government's collection, use, and dissemination of personal information.

Public Housing Agency (PHA): housing that is built, operated, and owned by a government and that is typically provided at nominal rent to the low-income and very low-income members of a community.

Reasonable Accommodation: a reasonable accommodation is any modification or adjustment to housing rules, policies, practices, or services that will enable a qualified applicant or participant family with a disability to participate in the application process and to be provided the ability to use and enjoy a dwelling unit. Reasonable accommodation also includes adjustments to assure that qualified persons with a disability has rights and privileges in housing equal to persons without disabilities.

Reasonable rent: a rent to owner that is not more than rent charged:

- Comparable units in the private unassisted market; and
- Comparable unassisted units in the premises.

Receiving HA (Port-in): the HA that receives a family selected for participation in the tenant-based program from another HA outside Santa Clara County. The receiving HA issues a voucher and provides program assistance to the family.

Reexamination: the process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 month for non-MTW families, or 24 or 36 months for MTW families (based on MTW Plan established criteria), if there are no additional changes to be reported.

Registered Domestic Partner: legally recognized partner of the Head of Household as filed with the State of California, Secretary of State Domestic Partners Registry, and in accordance with

State of California Family Code section 297 or other states recognizing a similar partnership status.

Rent to owner: the total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent-to-owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Renting to a Relative: according to HUD regulations, a Section 8 tenant may not be related to their selected owner. A relative is classified by HUD as a person who is related by family bloodline or through marriage to the owner of the unit.

Responsible entity: for the PHA and the Section 8 HCV, Project-based Certificate assistance, and Moderate Rehabilitation programs, the responsible entity means the HA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Request for Tenancy Approval (RTA): all eligible families submit information to the HA when applying for housing assistance under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). The HA uses the information on the RTA form to determine if the family is eligible, if the unit is eligible, and if the lease complies with program and statutory requirements.

Shared housing: a unit that is occupied by two or more families consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family; this is a special housing type. (24 CFR 982.615 & 982.618)

Single Person: a person living alone or intending to live alone.

Single room occupancy housing (SRO): the SRO Program provides rental assistance for homeless persons in connection with the moderate rehabilitation of SRO dwellings. SRO housing contains units for occupancy by one person. These units may contain food preparation or sanitary facilities, or both. (Considered a special housing type.)

Social Security (SS): the Social Security Administration assigns a nine-digit number that to a person by that identifies the record of the person's earnings reported to the Social Security Administration. This Administration also assigns social security disability benefits.

Administration acronyms are:

SSN: Social Security Number

SSI: Supplemental Security Income

SSDI: Supplemental Security Disability Income

Special admission: admission of an applicant that is not on the HA waiting list or without considering the applicant's waiting list position. This process may occur if HUD awards' funding

that is specifically targeted for families living in specified units.

Special housing types: the following special housing types in accordance with requirements of the program: single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home when the family owns the home and leases the manufactured home space, cooperative housing or homeownership option.”

Spouse: the marriage partner or registered domestic partner of the head-of-household.

Subsidy Size: the HA determines the appropriate number of bedrooms under the HA subsidy standards. The guidelines used by the HA to determine bedroom size are found in the 2009 Administrative Plan.

Subsidy standards: standards established by a HA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension/Tolling: stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the HA decides to allow extensions or suspensions of the voucher term, the HA Administrative Plan must describe how the HA determines whether to grant extensions or suspensions, and how the HA determines the length of any extension or suspension.

Tenancy Addendum: for the HCV Program, the language required by HUD as stated in the lease between the participant family and the owner.

Tenant-based voucher participant: an individual on the HCV program whose rental assistance is tied to their family, as opposed to a specific housing unit.

Tenant Rent to Owner (TRO): the contract rent minus applicable payment standard, and after verification of rent reasonableness.

Total Tenant Payment (TTP): the total amount the participant family must pay toward rent and utilities based upon a specific calculation.

Unit: the residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utilities: water, electricity, gas, other heating, refrigerator, cooking fuels, trash collection and sewage services. Telephone and cable service are not included as a utility.

Utility allowance: the total resident payment of rent includes both shelter and the costs for reasonable amounts of utilities. (Only included if utilities are not paid by the owner/landlord.)

Violence Against Women Act (VAWA): the primary objectives of VAWA 2005 are to reduce violence against women and to protect, or increase the protection of, the safety and

confidentiality of women who are victims of abuse.

Violent criminal activity: any illegal 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. (Read Family Obligations, Form #10780, for complete list of housing assistance program requirements.)

Voucher: a document issued by the HA to a family selected for admission to the HCV Program. This document describes the program and the procedures for HA approval of a unit selected by the family. The voucher also states the obligations of the family under the Program.

Vital Documents: Any document that is critical for ensuring meaningful access to the recipients' major activities and programs by beneficiaries generally and LEP persons specifically. Whether or not a document is "vital" may depend upon the importance of the program, information, encounter, or service involved, the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

Voucher holder: a family holding a voucher with an unexpired term.

Voucher program: the HCV Program; also known as Section 8.

Waiting List: families are given a position number and placed on the Waiting List in an order determined by computerized random selection. The HA selects applicants from the 2006 Waiting List based on their position number. **The 2006 Waiting List is closed.** (Also see Interest List)

Waiting List Preferences: a system of local preferences for selection of families admitted to the Program.

Welfare assistance: income assistance from federal or State welfare programs, including assistance provided under Temporary Assistance to Needy Families (TANF) and general assistance (cash aid). Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families.

Zero Income: A family who does not have income after the Housing Authority applies income exclusions, including exclusions due to HA policy. (For instance: A family who receives income that is 100% excluded).