

**HOUSING AUTHORITY  
OF  
COCHISE COUNTY**



**SECTION 8 HOUSING CHOICE  
VOUCHER PROGRAM  
ADMINISTRATIVE PLAN  
EFFECTIVE MARCH 24, 2026**

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## **INTRODUCTION**

The PHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

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

There are three parts to this chapter:

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

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

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

## **PART I: THE PHA**

### **1-I.A. OVERVIEW**

This part explains the origin of the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

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

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Housing Authority of Cochise County for the jurisdiction of Cochise County.

The officials of the Housing Authority of Cochise County are the Cochise County Board of Supervisors., ensuring that policies are followed by PHA staff and that the PHA is successful in its mission. The board is responsible for approving efforts in preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the PHA are taken through written resolutions, adopted by the Board of Supervisors and entered into the official records of the PHA and Cochise County.

The principal staff member of the PHA is the executive director (ED), hired and appointed by the Cochise County Administration. The executive director is directly responsible for carrying out the policies established by the commissioners and is

delegated the responsibility for hiring, training and supervising the remainder of the PHA's staff in order to manage the day-to-day operations of the PHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

### **1-I.C. PHA MISSION**

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

#### PHA Policy

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

### **1-I.D. THE PHA'S PROGRAMS**

The following programs are included under this administrative plan:

#### PHA Policy

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

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

As a public service agency, the PHA is committed to providing excellent service to HCV program participants – families and owners – in the community. The PHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development. The PHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

## **1.0 FAIR HOUSING & EQUAL OPPORTUNITY**

### **1.1 FAIR HOUSING**

It is the policy of HACC to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the ground of race, color, sex, religion, national or ethnic origin, familial status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the HACC housing programs.

To further its commitment to full compliance with applicable Civil Rights laws, HACC will provide Federal/State/local information to applicants for and participants in the Section 8 Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the HACC office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

HACC will assist any family that believes they have suffered illegal discrimination by providing copies of the housing discrimination form. HACC will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

In an effort for deconcentrating poverty and income mixing, HACC will focus on increasing housing choices where applicable in high-opportunity areas by setting the payment standards of 110% of the Fair Market Rent (FMR) and according to zip code. In addition, referrals may be made for counselling and information to help families identify areas with better schools, jobs, and services.

## **1.2 REASONABLE ACCOMMODATION**

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of the HACC housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

This policy clarifies how people can request accommodations, and the guidelines HACC will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, HACC will ensure that all applicants/participants are aware of the opportunity to request reasonable accommodations.

### **Types of Reasonable Accommodations**

When needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit, when necessary, because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

## **1.3 COMMUNICATION**

Anyone requesting an application will also receive a Request for Reasonable Accommodation Form.

Notifications of reexamination, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification

requesting action by the participant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests will be in writing.

#### **1.4 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION**

- A. Is the requestor a person with disabilities? For this purpose, the definition of disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e., a heart condition).

If the disability is apparent or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not apparent or documented, HACC will obtain verification that the person is a person with a disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, HACC will obtain documentation that the requested accommodation is needed due to the disability. HACC will not inquire as to the nature of the disability.
- C. Is the requested accommodation reasonable? To be determined reasonable, the accommodation must meet two criteria:
1. Would the accommodation constitute a fundamental alteration? HACC business is housing. If the request would alter the fundamental business that HACC conducts, that would not be reasonable. For instance, HACC would deny a request to have HACC do grocery shopping for the person with disabilities.
  2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, HACC may request a meeting with the individual to investigate and consider equally effective alternatives.

Generally, the individual knows best what they need; however, HACC retains the right to be shown how the requested accommodation enables the individual to access or use the HACC programs or services.

If more than one accommodation is equally effective in providing access to the HACC programs and services, HACC retains the right to select the most efficient or economic choice.

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. HACC does not have responsibility for the owner's unit and does not have responsibility to make the unit accessible.

Any request for an accommodation that would enable a participant to materially violate family obligations will not be approved.

### **1.5 *SERVICES FOR NON-ENGLISH-SPEAKING PERSONS AND PARTICIPANTS***

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

HACC will endeavor to have bilingual staff or access to people who speak languages other than English

### **1.6 *FAMILY/OWNER OUTREACH***

HACC will publicize the availability and nature of the Section 8 Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach persons, who cannot or do not read newspapers, HACC will distribute fact sheets to the broadcasting media, community service agencies, and library and school bulletin boards and at City Hall. HACC will also try to utilize public service announcements.

HACC will communicate the status of program availability to other service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

HACC will hold briefings for owners who participate in or who are seeking information about the Section 8 Program. Owners and managers participating in the Section 8 Program may participate in making this presentation. The briefing is intended to:

- A. Explain how the program works.
- B. Explain how the program benefits owners.
- C. Explain owners' responsibilities under the program. Emphasis is placed on quality screening and ways HACC helps owners do better screening; and
- D. Provide an opportunity for owners to ask questions, obtain written materials, and meet HACC staff.

HACC will particularly encourage owners of suitable units located outside of low-income or minority concentration to attend. Targeted mailing lists will be developed, and announcements mailed.

### **1.7 RIGHT TO PRIVACY**

All adult members of both applicant and participant households are required to sign HUD Form 9886, *Authorization for Release of Information and Privacy Act Notice*. The *Authorization for Release of Information and Privacy Act Notice* states how family information will be released and includes the *Federal Privacy Act Statement*.

Any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant.

### **1.8 REQUIRED POSTINGS**

HACC will post, at its office, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. The Section 8 Administrative Plan
- B. Notice of the status of the waiting list (opened or closed)
- C. The office hours, telephone numbers, TDD numbers, and hours of operation
- D. Income Limits for Admission
- E. Informal Review and Informal Hearing Procedures
- F. Fair Housing Poster
- G. Equal Opportunity in Employment Poster

### **1.9 FSS AFFIRMATIVELY FURTHERING FAIR HOUSING ADDENDUM**

It is an objective of the Housing Authority of Cochise County (HACC) to promote

fair housing and the opportunity for all individuals and families to experience freedom of housing choice. We will continue to ensure equal opportunity and affirmatively further fair housing through the following actions:

- Annually review and revise information that is distributed to applicants, tenants and program participants who contact this office wanting tenant/landlord and fair housing assistance.
- Ensure that HACC staff attends Fair Housing training to better understand the law so that accurate technical assistance can be provided.
- Advertise widely in the community for all positions including that of the FSS program coordinator.
- Market all programs to all eligible persons including persons with disabilities and persons with limited English proficiency.
- Make buildings and communications that facilitate applications and service delivery accessible to persons with disabilities.
- Provide fair housing counseling referrals to fair housing agencies.
- Inform participants how to file a fair housing complaint, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777.
- Recruit service providers in areas that expand housing choice to program participants seeking homeownership.

Program record keeping will include the race, ethnicity, familial status, and disability status of program participants.

## **2.0 COCHISE COUNTY HA/OWNER RESPONSIBILITY/OBLIGATION OF THE FAMILY**

This Section outlines the responsibilities and obligations of HACC, the Section 8 Owners/Landlords, and the participating families.

### **2.1 COCHISE COUNTY HA RESPONSIBILITIES**

- A. HACC will comply with the consolidated ACC, the application, HUD regulations and other requirements, and the HACC Section 8 Administrative Plan.
- B. In administering the program, HACC must:

1. Publish and disseminate information about the availability and nature of housing assistance under the program.
2. Explain the program to owners and families.
3. Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration.
4. Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration.
5. Affirmatively further fair housing goals and comply with equal opportunity requirements.
6. Make efforts to help disabled persons find satisfactory housing.
7. Receive applications from families, determine eligibility, maintain the waiting list, select applicants, issue a voucher to each selected family, and provide housing information to families selected.
8. Determine who can live in the assisted unit at admission and during the family's participation in the program.
9. Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5.
10. Review the family's request for approval of the tenancy and the owner/landlord lease, including the HUD prescribed tenancy addendum.
11. Inspect the unit before the assisted occupancy begins and at least annually during the assisted tenancy.
12. Determine the amount of the housing assistance payment for a family.
13. Determine the maximum rent to the owner and whether the rent is reasonable.
14. Make timely housing assistance payments to an owner in accordance with the HAP contract.
15. Examine family income, size and composition at admission and during the family's participation in the program. The examination includes verification of income and other family information.
16. Establish and adjust HACC utility allowance.

17. Administer and enforce the housing assistance payments contract with an owner, including taking appropriate action as determined by HACC, if the owner defaults (e.g., HQS violation).
18. Determine whether to terminate assistance to a participant family for violation of family obligations.
19. Conduct informal reviews of certain HACC decisions concerning applicants for participation in the program.
20. Conduct informal hearings on certain HACC decisions concerning participant families.
21. Provide sound financial management of the program, including engaging an independent public accountant to conduct audits.

## **2.2 OWNER RESPONSIBILITY**

- A. The owner is responsible for performing all the owner's obligations under the HAP contract and the lease.
- B. The owner is responsible for:
  1. Performing all management and rental functions for the assisted unit, including selecting a voucher holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.
  2. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
  3. Complying with equal opportunity requirements.
  4. Preparing and furnishing to HACC information required under the HAP contract.
  5. Collecting from the family:
    - a. Any security deposit required under the lease.
    - b. The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
    - c. Any charges for unit damage by the family.
  6. Enforcing tenant obligations under the lease.
  7. Paying for utilities and services (unless paid by the family under

the lease.)

8. Including in the lease a clause stating that engaging in drug-related criminal activity on or near the premises by the tenant, household member, guest, or any other person under the tenant's control is grounds for the owner to terminate tenancy. In addition, the lease must also provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- C. For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.
  - D. The owner is responsible for notifying HACC sixty (60) days prior to any rent increase.
  - E. The owner must show justification for any rental increase. Only one request per tenant may be submitted within a 12-month period and the increase must not exceed 10% of the contracted rent.
  - F. If a stop payment is required on checks issues by HACC, the bank charge of \$50.00 will be passed along to the payee.

### **2.3 OBLIGATIONS OF THE PARTICIPANT**

This Section states the obligations of a participant family under the program.

- A. Supplying required information.
  1. The family must supply any information that HACC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation.
  2. The family must supply any information requested by HACC or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
  3. The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information.
  4. Any information supplied by the family must be true and complete.
- B. HQS breach caused by the Family

The family is responsible for any HQS breach caused by the family or its guests.

C. Allowing HACC Inspection

The family must allow HACC to inspect the unit at reasonable times and after at least two (2) days' notice.

D. Violation of Lease

The family may not commit any serious or repeated violations of the lease.

E. Family Notice of Move or Lease Termination

The family must notify HACC and the owner before the family moves out of the unit or terminates the lease by a notice to the owner.

F. Owner Eviction Notice

The family must promptly give HACC a copy of any owner eviction notice it receives.

G. Use and Occupancy of the Unit

1. The family must use the assisted unit for a residence by the family. The unit must be the family's only residence.
2. HACC must approve the composition of the assisted family residing in the unit. The family must promptly inform HACC of the birth, adoption or court-awarded custody of a child. The family must request approval from HACC to add any other family member as an occupant of the unit. No other person (i.e., only members of the assisted family) may reside in the unit (except for a foster child/foster adult or live-in aide as provided in paragraph (4) of this Section).
3. The family must promptly notify HACC if any family member no longer resides in the unit.
4. If HACC has given approval, a foster child/foster adult or a live-in aide may reside in the unit. HACC has the discretion to adopt reasonable policies concerning residence by a foster child/foster adult or a live-in aide and defining when HACC consent may be given or denied.
5. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.

6. The family must not sublease or let the unit.
7. The family must not assign the lease or transfer the unit.
8. The family must agree to receive all mail from HACC at the assisted unit, or at a Post Office Box registered in the family's name.

H. Absence from the Unit

The family must supply any information or certification requested by HACC to verify that the family is living in the unit, or relating to family absence from the unit, including any HACC requested information or certification on the purposes of family absences. The family must cooperate with HACC for this purpose. The family must promptly notify HACC of its absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to 30 calendar days. The family must request permission, in writing before the absence, from the or absences exceeding 30 calendar days. HACC will make a determination within 5 business days of the request. An authorized absence may not exceed 180 calendar days. Any family absent for more than 30 calendar days without authorization will be terminated from the program.

Authorized absences may include, but are not limited to:

1. Prolonged hospitalization
2. Absences beyond the control of the family (i.e., death in the family, other family member illness)
3. Other absences that are deemed necessary by HACC

I. Interest in the Unit

The family may not own or have any interest in the unit (except for owners of manufactured housing renting the manufactured home space).

J. Fraud and Other Program Violation

The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the programs.

K. Crime by Family Members

The members of the family may not engage in drug-related criminal

activity or other violent criminal activity.

L. Other Housing Assistance

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 (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

### **3.0 ELIGIBILITY FOR ADMISSION**

#### **3.1 INTRODUCTION**

HACC accepts applications only from families whose head or spouse is at least 18 years of age. To be eligible for participation, an applicant must meet HUD's criteria, as well any permissible additional criteria established by the PHA. HUD's eligibility criteria are:

- A. An applicant must be a family
- B. An applicant must be within the appropriate income limits
- C. An applicant must provide Social Security Numbers for all family members aged six and older, and
- D. An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required.
- E. Consent to the PHA's collection and use of family information as provided for in PHA provided consent forms.

At least one member of the applicant family must either be a U.S. Citizen or have eligible immigration status before HACC may provide any financial assistance.

#### **3.2 ELIGIBILITY CRITERIA**

- A. Family Status.
  - 1. A **family with or without children**. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship.
    - a. Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home and is not intended to artificially enlarge the space available for other

family members.

- b. Unborn children and children in the process of being adopted are considered family members for purposes of determining bedroom size but are not considered family members for determining income limit.
2. An **elderly family**, which is:
    - a. A family whose head, spouse, or sole member is a person who is at least 62 years of age.
    - b. Two or more persons who are at least 62 years of age living together; or
    - c. One or more persons who are at least 62 years of age living with one or more live in aides.
  3. A **disabled family**, which is:
    - a. A family whose head, spouse, or sole member is a person with disabilities.
    - b. Two or more persons with disabilities living together; or
    - c. One or more persons with disabilities living with one or more live-in aides.
    - d. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence.
  4. A **remaining member of a tenant family**. The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.
  5. A **single person** who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

#### Guests

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

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

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

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

### **Absent Family Members**

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

### **Absent Students**

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

### **Absences due to placement in foster care**

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

### **Absent Head, Spouse, or Co head**

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

### **LIVE-IN AIDE**

*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 5.403].

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be

required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to PHA verification-at each annual reexamination. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

A live-in aide must be approved by the owner of the unit.

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

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

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

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

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

B. Income eligibility

1. To be eligible to receive assistance a family shall, at the time the family initially receives assistance under the Section 8 program shall be a low-income family that is:
  - a. An extremely low-income (30% of median income), a very low income (50% of median income); or low-income family (80% of median income).
  - b. A low-income family continuously assisted for 90 calendar days under the 1937 Housing Act.
  - c. A low-income family that meets additional eligibility criteria specified by the Housing Authority.
  - d. A low-income family that is a no purchasing tenant in a HOPE 1 or HOPE 2 project or a property subject to a resident homeownership program under 24 CFR 248.173.
  - e. A low-income family or moderate-income family that is displaced because of the prepayment of the mortgage or voluntary termination

of an insurance contract on eligible low-income housing.

- f. A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project.
2. Income limits apply only at admission and are not applicable for continued occupancy; however, as income rises the assistance will decrease.
3. The applicable income limit for issuance of a voucher is the highest income limit for the family size for areas within the housing authority's jurisdiction. The applicable income limit for admission to the program is the income limit for the area in which the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.
4. Families who are moving into the HACC jurisdiction under portability do not have to meet the income eligibility requirement for the HACC program.
5. Income limit restrictions do not apply to families transferring units within the HACC Section 8 Program.

#### C. Citizenship or Eligible Immigration Status

To receive assistance, one family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families A family is eligible for assistance if at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

Non-eligible members Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students Defined by HUD in the noncitizen regulations are not

eligible for assistance.

Appeals For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

D. Social Security Number Documentation

To be eligible, all family members 6 years of age and older must provide a Social Security Number or certify that they do not have one.

E. Signing Consent Forms

1. To be eligible each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.
  2. The consent form must contain, at a minimum, the following:
    - a. A provision authorizing HUD and HACC to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation or for eligibility for continued occupancy.
    - b. A provision authorizing HUD or HACC to verify with previous or current employer's income information pertinent to the family's eligibility for or level of assistance.
    - c. A provision authorizing HUD to request income information from the IRS and the SSA for the sole purpose of verifying income information pertinent to the family's eligibility or level of benefits; and
    - d. A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.
- F. Suitability for tenancy. HACC determines eligibility for participation and will also conduct criminal background checks on all adult household members, including live-in aides. HACC will deny assistance to a family because of drug-related criminal activity, registered sex offenders or violent criminal activity by family members within the three previous years from the date of the record search. This check will be made through local law enforcement. If the individual has lived outside the local area, HACC may contact law enforcement agencies where the individual had lived

HACC will check with the State sex offender registration program *via the*

*Internet at [www.azsexoffender.org](http://www.azsexoffender.org) and will ban for life any individual who is registered as a lifetime sex offender.*

Additional screening is the responsibility of the owner. Upon the written request of a prospective owner, the HACC will provide any factual information, or third party written information they have relevant to a voucher holder's history of, or ability to, comply with material standard lease terms or any history of drug trafficking.

## **4.0 MANAGING THE WAITING LIST**

### **4.1 *OPENING AND CLOSING THE WAITING LIST***

Opening of the waiting list will be announced via public notice that applications for Section 8 will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation, and by any available minority media. The public notice will state any limitations to who may apply.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program, and that such applicants will not lose their place on other waiting lists when they apply for Section 8. The notice will include the Fair Housing logo.

Closing of the waiting list will be announced via public notice. The public notice will state the date the waiting list will be closed. The public notice will be published in a local newspaper of general circulation, distributed to community agencies, posted at City Hall, the City Library and made available through minority media.

### **4.2 *TAKING APPLICATIONS***

Families wishing to apply for the Section 8 Program will be required to complete a pre-application ("application") for housing assistance. Applications are available at the counter during regular business hours at: HACC, 1415 Melody Lane, Building A, Bisbee, AZ 85603. Applications will also be mailed upon request of the applicant.

Applications are taken to compile a waiting list. Due to the demand for Section 8 assistance, applications may be taken on an open enrollment basis, depending on the length of the waiting list.

When the waiting list is open, completed pre-applications will be accepted from all applicants at any time and will be dated and time stamped upon its return to HACC. Pre-Applications will be added to the waiting list by local preference, date and time that it was received. HACC will at a later date request a full application in order to determine applicant's eligibility, admission, and level of benefit.

Persons needing assistance with the application process may receive help in person at the HACC, 1415 Melody Lane, Building A, Bisbee, AZ 85603 during normal office hours, Monday – Friday, 8:00 AM – 5:00 PM.

Persons with disabilities who require a reasonable accommodation in completing an application may call HACC to make special arrangements to complete their application. A Telecommunication Device for the Deaf (TDD) is available for the deaf. The TDD telephone number is **520.432.8360**.

The application process involves two phases. Phase 1 is the pre-application. The pre-application requires the family to provide limited basic information including name, address, phone number, family composition and family unit size, racial or ethnic designation of the head of household, income information, birth certificates, Social Security Cards, Immigration Status as required by HUD's Non-Citizen Rule, and information establishing any preferences to which they may be entitled. Phase 1 may result in the family's placement on the waiting list.

Upon receipt of the family's pre-application, HACC will make a preliminary determination of eligibility. HACC will notify the family in writing that their name has been placed on the waiting list according to local preference and date and time. If HACC determines the family to be ineligible, the notice will state the reasons therefore and offer the family the opportunity of an informal review of this determination.

Applicants must report changes to their application including changes in family composition, income, or preference factors. Changes must be reported in writing by the Head of Household. The applicant's file will be annotated and their place on the waiting list will be updated should that become necessary.

Phase 2 is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. Verification of all preferences and eligibility will be done in Phase 2 of the application process. The family's final eligibility for admission into the Section 8 Program is determined during Phase 2.

#### **4.3 ORGANIZATION OF THE WAITING LIST**

The waiting list(s) will be maintained in accordance with the following guidelines:

- A. The application will be a permanent file.
- B. All applications will be maintained in order of local preference and then in order of date and time of application.
- C. Any contact between HACC and the applicant will be documented in the applicant file.

Note: The tenant-based waiting list cannot be maintained by bedroom size under current HUD regulations.

#### **4.4 FAMILIES NEARING THE TOP OF THE WAITING LIST**

When a family appears to be within two (2) months of being offered assistance, the family will be asked to complete a full application and present Social Security Number information, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms and all other required information. These applicant files will be pulled from the waiting list for eligibility certification and will be placed in a Pre-Participation Status. HACC must notify the family in writing of its determination and give the family the opportunity for an informal review.

#### **4.5 MISSED APPOINTMENTS**

All applicants who fail to keep a scheduled appointment in accordance with the paragraph below will be sent a notice of denial.

HACC will allow the family to reschedule an appointment for good cause but no more than twice. When a good cause exists, HACC will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review before being removed from the waiting list. Examples of good cause include but are not limited to the following: 1) documentation of hospitalization 2) documentation of family illness 3) death in the immediate family that requires out of town travel.

#### **4.6 PURGING THE WAITING LIST**

HACC will update and purge its waiting list at least annually to ensure that the pool of applicants reasonably represents interested families. Purging also enables the Housing Authority to update the information regarding address, family composition, income category and preferences.

#### **4.7 REMOVAL OF APPLICANTS FROM THE WAITING LIST**

HACC will not remove an applicant's name from the waiting list unless:

- A. The applicant requests, in writing, that the name be removed.
- B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program or misses scheduled appointments or refuses offered housing; or
- C. The applicant does not meet either the eligibility or screening criteria for the program.

**4.8 GROUNDINGS FOR DENIAL**

HACC will deny assistance to applicants who:

- A. Do not meet any one or more of the eligibilities criteria.
- B. Do not supply information or documentation required by the application process.
- C. Fail to respond to a written request for information or a request to declare continued interest in the program.
- D. Fail to complete any aspect of the application or lease-up process.
- E. Have a history of criminal activity (a three-year period) by any household member involving crimes of physical violence against persons or property, and drug-related criminal activity that would adversely affect the health, safety, or wellbeing of other tenants or staff, or cause damage to the property.
- F. Currently owes rent or other amounts to any housing authority in connection with the public housing or Section 8 Programs.
- G. Have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from.
- H. Have a family member who was evicted or terminated from assisted housing within the past three years.
- I. Have a family member who was evicted from assisted housing within five years of the projected date of admission because of drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- J. Have a family member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The HACC may waive this requirement with documentation or statement from a third party if:
  1. The person has successfully completed a supervised drug or alcohol rehabilitation program; or
  2. The person is participating in a supervised drug or alcohol rehabilitation program.

- K. Have engaged in or threatened abusive or violent behavior towards any HACC staff or residents.
- L. Have a family household member who has been terminated under the Section 8 Program during the last three years.
- M. Have a family member who has been convicted of manufacturing or producing methamphetamine (speed) (Denied for life).
- N. Have a family member with a lifetime registration under a state sex offender registration program (Denied for life).

***NO APPLICANT FOR THE HCV PROGRAM WHO HAS BEEN A VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING SHALL BE DENIED ADMISSION INTO THE PROGRAM IF THEY ARE OTHERWISE QUALIFIED.***

#### **4.9 NOTIFICATION OF NEGATIVE ACTIONS**

Any applicant whose name is being removed from the waiting list will be notified by HACC, in writing, that they have ten (10) business days, from the date of the written correspondence, to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the time frame specified. HACC system of removing applicants' names from the waiting list will not violate the rights of persons with disabilities. If an applicant's failure to respond to a request for information or updates was caused by the applicant's disability, HACC will provide a reasonable accommodation. If the applicant indicates that they did not respond due to a disability, the HACC will verify that there is in fact a disability and that the accommodation they are requesting is necessary based on the disability. An example of a reasonable accommodation would be to reinstate the applicant on the waiting list based on the date and time of the original application.

#### **4.10 INFORMAL REVIEW**

If HACC determines that an applicant does not meet the criteria for receiving Section 8 assistance, HACC will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision, and state that the applicant may request an informal review of the decision within ten (10) business days of the denial. HACC will describe how to obtain the informal review. The informal review process is described in Section 16.2 of this Plan.

### **5.0 SELECTING FAMILIES FROM THE WAITING LIST**

### **5.1 *WAITING LIST ADMISSIONS AND SPECIAL ADMISSIONS***

If HUD awards funding that is targeted for families with specific characteristics or families living in specific units, HACC will use the assistance for those families.

### **5.2 *PREFERENCES***

Families are eligible for the following local preferences:

**Residency:** Living or working in Cochise or Graham Counties or have notified that they are hired to work in Cochise or Graham Counties.

To verify this preference, the PHA will require a minimum of [3] of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, driver's licenses, voters registration records, credit reports, notarized statement from household with whom the family is residing. For families who have been hired to work in the jurisdiction of the PHA, a statement from the employer will be required.

**Elderly/Disabled:** One who is at least 62 years old. Disabled person as defined by Section 223 of the Social Security Act or Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act.

**Chronically Homeless:** A person who is referred to HACC by a homeless shelter as chronically homeless as defined by HUD.

**Veterans:** This preference is available to veterans or surviving spouses of veterans. The PHA will require U.S. government documents indicating the applicant qualifies under the above definition.

**Victims of Domestic Violence:** A person who is referred by a Domestic Violence or Crisis shelter and is verified to be a victim of domestic violence as defined in Chapter 22, Violence Against Women Act. The domestic violence must have occurred no more than 3 months prior to requesting this preference; and/or the applicant is receiving services from a counseling/DV agency during the time of application. Supporting documentation must be provided.

**Involuntary Displacement:** Due to a natural disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable. The unit must have become uninhabitable no more than six months prior to the date of the request for preference and be located within the area the Housing Authority of Cochise County administers vouchers.

Families who claim they are being or have been displaced due to a disaster will be required to provide written verification by the displacing unit or agency of government, or by a service agency such as the Red Cross. They must have lived within the jurisdiction of the Housing Authority of Cochise County at the time of

displacement.

**Emergency Housing Voucher:** Families whose assistance is at risk of termination due to lack of program funding.

### 5.3 *SELECTION FROM THE WAITING LIST*

Families will be selected from the waiting list by local preference and then by date and time of the family's application for housing assistance.

If necessary, to meet the statutory requirement that 75% of newly admitted families in any fiscal year be families who are extremely low-income, HACC retains the right to skip higher income families on the waiting to reach extremely low-income families. This measure will only be taken if it appears the goal will not otherwise be met. To ensure this goal is met, the Housing Authority will monitor incomes of newly admitted families and the income of the families on the waiting list.

The new statutory definition of an extremely low-income (ELI) family. Section 238 of HUD's FY 2014 Appropriations Act<sup>1</sup> amended Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) to define ELI families as very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. The federal poverty level provision in the definition of ELI families does not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States.

If there are not enough extremely low-income families on the waiting list, HACC will conduct outreach on a non-discriminatory basis to attract extremely low-income families to reach the statutory requirement.

When an applicant is offered assistance and refuses the offer, he/she loses his/her placement on that waiting list. If the applicant is on another waiting list, the position on that list is not affected.

### 5.4 **SPECIAL PROGRAMS**

Admission preference may be established when special program needs arise. Applications for the following "special" programs will be accepted by referrals.

**HOPWA Rent Subsidy Program:** In collaboration with Cochise County and the Southern Arizona AIDS Foundation (SAAF). Ryan White Program, the PHA will provide a Section 8 "look-alike" program for eligible persons and families who qualify under HOPWA guidelines. If eligible under the guidelines, the PHA will determine eligibility for housing assistance. Applicants may be income eligible up to 80% of the median income.

**HUD-Veterans Affairs Supportive Housing (VASH):** The PHA in partnership with the Tucson Veterans Administration (VA) Medical Center provides housing assistance for homeless veterans along with case management, health, and other supportive services. Participants are referred by the VA. Higher payment standards may be set for the program as well as waiver of minimum rent.

**Emergency Housing Vouchers:** The PHA in partnership with Continuums of Care (CoCs), and Victim Service Providers (VSPs) to develop collaborative partnerships and strategies that effectively address the needs of vulnerable populations in their communities. The PHA provides housing choice vouchers to to assist individuals and families who are homeless, at-risk of homelessness, fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or were recently homeless or have a high risk of housing instability.

## 6.0 ASSIGNMENT OF BEDROOM SIZES (SUBSIDY STANDARDS)

HACC will issue a voucher for a bedroom size – the bedroom size is a factor in determining the family’s level of assistance. The following guidelines will determine each family’s unit size without overcrowding or over-housing:

| Number of Bedrooms | Number of Persons |         |
|--------------------|-------------------|---------|
|                    | Minimum           | Maximum |
| 0                  | 1                 | 1       |
| 1                  | 1                 | 2       |
| 2                  | 2                 | 4       |
| 3                  | 3                 | 6       |
| 4                  | 4                 | 8       |

These standards are based on the assumption that each bedroom will accommodate no more than two (2) people and relate to the number of bedrooms on the voucher, not the family’s actual living arrangements. The Unit size on the voucher remains the same as long as family composition remains the same, regardless of the actual unit size rented. HACC will consider factors such as family characteristics including sex age or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, HACC assigns one bedroom to two people within the following guidelines but will not require adults and children to share a room:

- A. Separate bedrooms will be assigned for persons of the opposite sex (other than adults who have a spousal relationship and children under the age of 6 years.)
- B. Foster children will be included in determining unit size only if they will be in the unit for more than 6 months.
- C. Live-in aides will generally be provided a separate bedroom at intake. No additional bedrooms are provided for the aide's family
- D. Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
- E. A single pregnant woman with no other family members must be treated as a two-person family.

HACC may grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members.

HACC will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a: verified medical or health reason or elderly persons or persons with disabilities who may require a live-in aide. Requests based on health-related matters must be verified by a certified professional and must state why a larger size unit than that allowed by the guidelines is necessary.

HACC will not issue a larger voucher due to additions of family members other than by birth, adoptions, marriage or court awarded custody. When a family qualifies for a larger unit HACC will do so at the next annual reexam providing funding is available.

The members of the family residing in the unit must be approved by HACC. The family must obtain approval of any additional family members before the new family member occupies the unit except for additions by birth, adoption or court ordered custody, in which case the family must inform the PHA within 30 calendar days. The above referenced guidelines will apply.

The family unit size will be determined by HACC in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller size will be used to calculate the subsidy. If the family selects a larger size, the payment standard for the family unit size will determine the maximum subsidy.

HACC does not determine who shares a bedroom/sleeping room, but there must be

at least one person per bedroom on the Voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

The assignment of bedroom sizes (as described above) applies only to the initial occupancy and does not apply to continued occupancy. During the initial term of the lease, because of additions to or decreases in the family size; the family will not be required to move to a larger or smaller unit unless the Housing Authority determines a move is in the best interest of the participant and/or Housing Authority. Such determination may only be made by the Director or authorized designee.

### **6.1 BRIEFING**

When HACC selects a family from the waiting list, the family will be invited to attend a briefing (allowing ten (10) business days' notice) explaining how the program works. To receive a voucher, the family is required to attend the briefing. If they cannot attend the originally scheduled briefing and provide prior written notice, they may attend a later session. If the family fails to attend the second scheduled briefing, they will be dropped from the waiting list and denied admission. Applicants arriving more than 10 minutes late to a briefing will not be briefed. Applicants will not be scheduled for more than two briefings.

If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the Housing Authority will furnish such aids were doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the Housing Authority will give primary consideration to the requests of the applicant. Families unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

The briefing will cover at least the following subjects:

- A. A description of how the program works.
- B. Family and owner responsibilities.
- C. Where the family may rent a unit, including inside and outside the Housing Authority's jurisdiction.
- D. Types of eligible housing.
- E. For families qualified to lease a unit outside the Housing Authority's jurisdiction under portability, an explanation of how portability works.
- F. An explanation of the advantages of living in an area that does not have a

high concentration of poor families; and

F. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income.

## 6.2 *PACKET*

During the briefing, HACC will give the family a packet covering at least the following subjects:

- A. The term of the voucher and the Housing Authority's policy on extensions and suspensions of the term. The packet will include information on how to request an extension and forms for requesting extensions.
- B. How the Housing Authority determines the housing assistance payment and total tenant payment for the family.
- C. Information on the payment standard and the utility allowance schedule.
- D. How the Housing Authority determines the maximum rent for an assisted unit.
- E. Where the family may lease a unit. For families qualified to lease outside the Housing Authority's jurisdiction, the packet includes an explanation of how portability works.
- F. The HUD-required tenancy addendum that provides the language that must be included in any assisted lease, and a sample contract.
- G. The request for approval of the tenancy form and an explanation of how to request Housing Authority approval of a unit.
- H. A statement of the Housing Authority's policy on providing information to prospective owners. This policy requires applicants to sign disclosure statements allowing the Housing Authority to provide prospective owners with the family's current and prior addresses and the names and addresses of the landlords for those addresses. Upon request, the Housing Authority will also supply any information or third-party verification relating to the applicant's history as a tenant or their ability to comply with material standard lease terms or any history of drug trafficking, drug-related criminal activity or any violent criminal activity.
- I. The Housing Authority's subsidy standards, including when and if the

Housing Authority will consider granting exceptions to the standards.

- J. The HUD brochure on how to select a unit (“A Good Place to Live”).
- K. The HUD-required lead-based paint brochure.
- L. Information on Federal, State, and local equal opportunity laws; the brochure “Fair Housing: It’s Your Right;” and a copy of the housing discrimination complaint form.
- M. A list of vacant units submitted by owners/agents who may be willing to lease a unit to the family or help the family find a unit.
- N. Notice that if the family includes a person with disabilities, the family may request a current list of accessible units known to the HACC that may be available.
- O. The family’s obligations under the program.
- P. The grounds upon which the Housing Authority may terminate assistance because of the family’s action or inaction.
- Q. HACC informal hearing procedures, including when the Housing Authority is required to provide the opportunity for an informal hearing, and information on how to request a hearing; and
- R. HACC owner information brochure. This brochure can be given by the applicant to a prospective owner to help explain the program.

### **6.3 ISSUANCE OF VOUCHER; REQUEST FOR APPROVAL OF TENANCY**

Once all family information has been verified, their eligibility determined, their subsidy calculated, and they have attended the family briefing, HACC will issue the voucher. At this point, the family begins their search for a unit. When the family finds a unit that the owner is willing to lease under the program, the family and the owner will complete and sign a proposed lease; the HUD required tenancy addendum and the request for approval of the tenancy form. The family will submit the proposed lease and the request form to the Housing Authority during the term of the voucher. The Housing Authority will review the request, the lease, and the HUD required tenancy addendum and make an initial determination of approval of tenancy. The Housing Authority may assist the family in negotiating changes that may be required for the tenancy to be approvable. Once it appears the tenancy may be approvable, the Housing Authority will schedule an appointment to inspect the unit within 15 business days after the receipt of inspection request from the family and owner. The 15-business day period is suspended during any period the unit is unavailable for inspection. The Housing Authority will promptly notify the owner and the family whether the unit and tenancy are approvable.

During the initial stage of qualifying the unit, the Housing Authority will, upon request, provide the prospective owner with information regarding the program. Information will include Housing Authority and owner responsibilities for screening and other essential program elements. The Housing Authority will provide the owner with the family's current and prior address as shown in the Housing Authority records along with the name and address (if known) of the landlords for those addresses.

Additional screening is the responsibility of the owner. Upon request by a prospective owner, the Housing Authority will provide any factual information, or third party written information they have relevant to a voucher holder's history of, or ability to, comply with standard material lease terms.

#### **6.4 TERM OF THE VOUCHER**

The initial term of the voucher will be 90 days and will be stated on the Housing Choice Voucher.

The Housing Authority may grant one extension of the term, but the initial term plus any extensions will never exceed 120 calendar days from the initial date of issuance. To obtain an extension, the family must make a request in writing prior to the expiration date. A statement of the efforts the family has made to find a unit must accompany the request. A sample extension request form and a form for recording their search efforts will be included in the family's briefing packet. If the family documents their efforts and additional time can reasonably be expected to result in success, the Housing Authority will grant the length of request sought by the family or 30 days, whichever is less.

If the family includes a person with disabilities and the family requires an extension due to the disability, the Housing Authority will grant an extension allowing the family the full 120 days search time. If the Housing Authority determines that additional search time would be a reasonable accommodation, the Housing Authority may grant an additional extension beyond the 120-day period.

Upon submittal of a completed request for approval of tenancy form, HACC will suspend the term of the voucher. The term will be in suspension until the date the Housing Authority provides notice that the request has been approved or denied. This policy allows families the full term (30 days, or more with extensions) to find a unit, not penalizing them for the period during which the Housing Authority is acting on their request. A family may submit a second request for approval of tenancy before the Housing Authority finalizes action on the first request. In this case, the suspension will last from the date of the first submittal through the Housing Authority's action on the second submittal. No more than two requests will be concurrently considered.

#### **Rescinding of Vouchers:**

If, due to budgetary constraints, the PHA must rescind vouchers that have already been issued to families, the PHA will do so according to the instructions under each category

below. The PHA will first rescind vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded.

Category 1: Vouchers for which a Request for Tenancy (RTA) and proposed lease have **not** been submitted to the PHA.

Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: Vouchers for which a Request for Tenancy Approval and proposed lease have been submitted to the PHA.

Vouchers will be rescinded in order of the date and time the RTA was submitted to the PHA, starting with the most recently submitted requests.

Families who have their vouchers rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with PHA selection policies.

#### **6.5 APPROVAL TO LEASE A UNIT**

HACC will approve a lease if all the following conditions are met:

- A. The unit is eligible.
- B. The unit is inspected by the Housing Authority and passes HQS.
- C. The lease is approvable and includes the language of the tenancy addendum.
- D. The rent to owner is reasonable.
- E. The family's share of rent does not exceed 40% of their monthly adjusted income,
- F. The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or the Housing Authority; and
- G. The family continues to meet all eligibility and screening criteria.

If tenancy approval is denied, the Housing Authority will advise the owner and the family in writing and advise them also of any actions they could take that would enable the Housing Authority to approve the tenancy.

The lease term may begin only after all the following conditions are met:

- A. The unit passes the Housing Authority HQS inspection.
- B. The family's share of rent does not exceed 40% of their monthly adjusted income,
- C. The landlord and tenant sign the lease to include the HUD required addendum; and
- D. The Housing Authority approves the leasing of the unit.

The Housing Authority will prepare the contract when the unit is approved for tenancy. Generally, the landlord, simultaneously with the signing of the lease and the HUD required tenancy addendum, will execute the contract. Upon receipt of the executed lease and the signed contract by the landlord, the Housing Authority will execute the contract. The Housing Authority will not pay any housing assistance to the owner until the contract is executed.

In no case will the contract be executed later than 60 days after the beginning of the lease term.

Any contract executed after the 60-day period will be void and the Housing Authority will not pay housing assistance to the owner.

#### **6.6 COCHISE COUNTY HA DISAPPROVAL OF OWNER**

The Housing Authority will deny participation by an owner at the direction of HUD. The Housing Authority will also deny the owner's participation for any of the following reasons:

- A. The owner has violated any obligations under a Section 8 Housing Assistance Payments Contract.
- B. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.
- C. The owner has engaged in drug-related criminal activity or any violent criminal activity.
- D. The owner has a history or practice of non-compliance with HQS for units leased under Section 8 or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program.
- E. The owner has a history or practice of renting units that fail to meet State or local codes; or
- F. The owner has not paid State or local real estate taxes, fines, or assessments.

- G. The owner refuses (or has a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the:
  - 1. premises by tenants, HACC employees or owner employees; or
  - 2. surrounding residents and/or neighbors.
- H. If the owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACC determines that approving the unit would provide reasonable accommodation for a family member with disabilities.
- I. Other conflicts of interest under Federal, State, or local law.
- J. The owner is debarred, suspended, or subject to a limited denial of participation under 2 CFR 2424.
- K. The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
- L. A court or administrative agency has determined that the owner violated the Fair Housing Act or federal equal opportunity requirements.
- M. Unless the PHA determines the approving unit would be a reasonable accommodation, the owner must not be the parent, child, grandparent, sister, or brother of any member of the assisted family.

#### **6.7 INELIGIBLE/ELIGIBLE HOUSING**

The following types of housing cannot be assisted under the Section 8 Tenant-Based Program:

- A. A public housing or Indian housing unit.
- B. A unit receiving project-based assistance under a Section 8 Program.
- C. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical or nursing services.
- D. College or other school dormitories.
- E. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions.

- F. A unit occupied by its owner. This restriction does not apply to cooperatives or to assistance on behalf of a manufactured homeowner leasing a manufactured home space.
- G. Units owned by family members; and
- H. A unit receiving any duplicative Federal, State, or local housing subsidy. This does not prohibit renting a unit that has a reduced rent because of a tax credit.

HACC will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities:

- A. Congregate housing
- B. Group homes
- C. Shared housing
- D. Cooperative housing
- E. Single room occupancy housing

HACC will approve leases for the following housing types:

- A. Single family dwellings
- B. Apartments
- C. Manufactured/Mobile housing - Post 1976
- D. Manufactured/Mobile home space rentals

## **6.8 SECURITY DEPOSIT**

The owner may collect a security deposit from the tenant in an amount not in excess of amounts charged in private market practice and not in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of the dwelling unit, the owner, subject to State or local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

## **7.0 MOVES WITH CONTINUED ASSISTANCE**

In the tenant and/or project-based program, participating families are not allowed to move to another unit or change programs until the initial 12-month lease has expired and proper notice has been given to the landlord and the PHA, or if the Housing Authority has terminated the HAP contract with an owner. A family may not move more than once during anyone-year period.

HACC may issue a new voucher if the family does not owe HACC or any other Housing Authority or landlord money in connection with a Section 8 program, has not violated a Family Obligation, has not moved and/or been issued a voucher within the last 12 months, **and** only if HACC has sufficient funding for continued assistance. If the move is necessitated for a reason other than family choice, the 12-month requirement may be waived. Mutual termination of an existing lease will not be accepted except for ADA accommodation or other mitigating circumstances.

### **7.1 WHEN A FAMILY MAY MOVE**

For families already participating in the Section 8 Program, HACC will allow the family to move to a new unit if:

- A. The assisted lease for the old unit has terminated.
- B. The owner has given the tenant a notice to vacate, has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant; or
- C. The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner).
- D. The PHA has terminated the HAP contract for the owner's breach; or
- E. The lease has terminated by mutual agreement of the owner and the tenant.
- F. 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 k, 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. The PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect health or safety of a family member who has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit.

However, any family member that has been a victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the unit.

## 7.2 ***PROCEDURES REGARDING FAMILY MOVES***

Families with tenant-based assistance considering transferring to a new unit will be scheduled to attend a mover's briefing. All families who are moving, including any families moving into or out of the HACC jurisdiction, will be required to attend a mover's briefing prior to HACC entering a new HAP contract on their behalf.

This briefing is intended to provide the following:

- A. A refresher on program requirements and the family's responsibilities. Emphasis will be on giving proper notice and meeting all lease requirements such as leaving the unit in good condition.
- B. Information about finding suitable housing and the advantages of moving to an area that does not have a high concentration of poor families.
- C. Payment standards, exception payment standard rent areas, and the utility allowance schedule.
- D. An explanation that the family share of rent may not exceed 40% of the family's monthly adjusted income.
- E. Portability requirements and opportunities.
- F. The need to have a reexamination conducted within 120 days prior to the move.
- G. An explanation and copies of the forms required to initiate and complete the move; and
- H. All forms, and brochures provided to applicants at the initial briefing.

## 7.3 ***WHEN TO CONDUCT A NEW REEXAM FOR A FAMILY MOVE***

The following procedures relating to *reexaminations* and *anniversary dates* will apply for all Family Moves. Failure to follow the procedures below may subject the family to termination from the program.

- A. In all cases of a transfer, a new reexam **must be** completed if the family income or composition has changed since the last recertification (even if the last recertification/verification is less than 120 days old). This will result in a new anniversary date for the family.

- B. Families are required to give proper written notice of their intent to terminate the lease. In accordance with HUD regulations, no notice requirement may exceed 60 days or be less than 30 days. Mutual termination of an existing lease will not be accepted unless they are for ADA accommodation or other mitigating circumstances.
- C. If the family moves from the unit before the initial term of the lease ends without approval of the owner and HACC, it will be considered a serious lease violation and cause for termination from the program.
- D. The family is required to give HACC a copy of the notice to terminate the lease at the same time as it gives the notice to the landlord. A family's failure to provide a copy of the lease termination notice to HACC will be considered a violation of Family Obligations and is cause for termination from the program.
- E. A family who gives notice to terminate the lease must mail the notice by certified mail or have the landlord or his agent sign a statement stating the date and time received. The family will be required to provide the certified mail receipt and a copy of the lease termination notice to HACC, or a copy of the lease termination notice and the signed statement stating the date and time the notice was received. If the landlord or his/her agent does not accept the certified mail receipt, the family will be required to provide the receipt and envelope showing that the attempt was made.

## **8.0 PORTABILITY**

### **8.1 *GENERAL POLICIES OF THE HOUSING AUTHORITY OF COCHISE COUNTY***

A family whose head or spouse has a domicile (legal residence) or works in the jurisdiction of HACC at the time the family first submits its application for participation in the program to HACC may lease a unit anywhere in the jurisdiction of HACC or outside the HACC jurisdiction as long as there is another entity operating a tenant-based Section 8 program covering the location of the proposed unit.

If the head or spouse of the assisted family does not have a legal residence or work in the jurisdiction of HACC at the time of its application, the family will not have any right to lease a unit outside of the HACC jurisdiction for a 12-month period beginning when the family is first admitted to the program. During this period, the family may only lease a unit located in the jurisdiction of HACC.

Families participating in the tenant-based program will not be allowed to move more than once in any 12-month period and under no circumstances will HACC allow a participant to improperly break a lease. Under extraordinary circumstances, HACC may consider allowing more than one move in a 12-month period.

Families may only move to a jurisdiction where a Section 8 Program is being administered.

If a family has moved out of their assisted unit in violation of the lease, HACC will not issue a voucher, and will terminate assistance in compliance with Section 14.0, Termination of Assistance to the Family by the Housing Authority of Cochise County.

## **8.2 INCOME ELIGIBILITY**

### **A. Admission**

A family must be income-eligible in the area where the family first leases a unit with assistance in the Tenant Based Assistance Program.

### **B. If a portable family is already a participant in the Initial Housing Authority's Tenant Based Assistance Program, income eligibility is not re-determined.**

## **8.3 PORTABILITY: ADMINISTRATION BY RECEIVING HOUSING AUTHORITY**

**A.** When a family utilizes portability to move to an area outside the Initial Housing Authority jurisdiction, another Housing Authority (the Receiving Housing Authority) must administer assistance for the family if that Housing Authority has a tenant-based program covering the area where the unit is located.

**B.** A Housing Authority with jurisdiction in the area where the family wants to lease a unit must issue the family a voucher. If there is more than one such housing authority, the Initial Housing Authority may choose which housing authority shall become the Receiving Housing Authority.

## **8.4 PORTABILITY PROCEDURES**

### **A. When HACC is the Initial Housing Authority:**

- 1.** HACC will brief the family on the process that must take place to exercise portability. The family will be required to attend an applicant or mover's briefing.
- 2.** HACC will determine whether the family is income-eligible in the area where the family wants to lease a unit (if applicable).
- 3.** HACC will advise the family how to contact and request assistance

4. HACC will, within ten (10) business days, notify the Receiving Housing Authority to expect the family.
5. HACC will immediately mail to the Receiving Housing Authority the most recent HUD Form 50058 (Family Report) for the family, and related verification information.

B. When HACC is the Receiving Housing Authority:

1. When the portable family requests assistance from HACC, HACC will within ten (10) calendar days inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable family or absorb the family into its own program. When HACC receives a portable family, the family can be absorbed if funds are available, and a voucher will be issued.
2. HACC will issue a voucher to the family. The term of a HACC voucher will not expire before the expiration date of any Initial Housing Authority's voucher. HACC will determine whether to extend the voucher term. The family must submit a request for tenancy approval to HACC during the term of the HACC voucher.
3. HACC will determine the family unit size for the portable family. The family unit size is determined in accordance with the HACC subsidy standards.
4. HACC will within ten (10) business days notify the Initial Housing Authority if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.
5. If HACC opts to conduct a new reexamination, HACC will not delay issuing the family a voucher or otherwise delay approval of a unit unless the re-certification is necessary to determine income eligibility.
6. To provide tenant-based assistance for portable families, HACC will perform all Housing Authority program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Authority or HACC may make a determination to deny or terminate assistance to the family in accordance with 24 CFR 982.552.

C. Absorption by the Housing Authority of Cochise County

If funding is available under the consolidated ACC for HACC Voucher Program when the portable family is received, HACC can absorb the family into its Voucher Program. After absorption, the family is assisted with funds available under the consolidated ACC for HACC Tenant-Based Program.

D. Portability Billing

1. To cover assistance for a portable family, the Receiving Housing Authority may bill the Initial Housing Authority for housing assistance payments and administrative fees. The billing procedure will be as follows:
  - a. As the Initial Housing Authority, HACC will promptly reimburse the Receiving Housing Authority for the full amount of the housing assistance payments made by the Receiving Housing Authority for the portable family. The amount of the housing assistance payment for a portable family in the Receiving Housing Authority's program is determined in the same manner as for other families in the Receiving Housing Authority's program.
  - b. The Initial Housing Authority will promptly reimburse the Receiving Housing Authority for 80% of the Initial or HUD prorated amounts Housing Authority's on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Authority. If both Housing Authorities agree, we may negotiate a different amount of reimbursement.

E. When a Portable Family Moves

When a portable family moves out of the tenant-based program of a Receiving Housing Authority that has not absorbed the family, the Housing Authority in the new jurisdiction to which the family moves becomes the Receiving Housing Authority, and the first Receiving Housing Authority is no longer required to provide assistance for the family.

## **9.0 DETERMINATION OF FAMILY INCOME**

### ***9.1 INCOME, EXCLUSIONS FROM INCOME, DEDUCTIONS FROM INCOME***

#### **EIV SYSTEM SEARCHES (Notice PIH 2018-18)**

##### **Existing Tenant Search**

Prior to admission to the program, the PHA must search for all household members using

the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

#### PHA Policy

The PHA will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The PHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

### **Debts Owed to PHAs and Terminations**

All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

#### PHA Policy

The PHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The PHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

### **Income and IVT Reports**

For each new admission, the PHA is required to review the EIV Income and IVT Reports

to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The PHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

To determine annual income, HACC counts the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, HACC subtracts out all allowable deductions (allowances) as the next step in determining the Total Tenant Payment.

Effective July 1, 2024:

HACC has the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income.

HACC must first determine the family’s income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family’s last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the HACC’s policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered. Income from assets is always anticipated, irrespective of the income examination type.

### **Overview of Calculating Annual Income at Annual Reexamination**

#### **Step 1:**

Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family’s rental assistance.

HACC reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
  - The income reported on the most recent reexamination HUD–50058/HUD–50059;
- and
- What the family certified to HACC on the annual reexamination paperwork for prior-year income.

**Step 2:** Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, HACC must use the annual income from the interim to determine the family’s rental assistance, if there are no additional changes.
- If HACC did not perform an interim or there have been changes since the last reexamination, move to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA/MFH Owner since the last reexamination, use current income.

Family reports their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, HACC may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD-50058/ HUD-50059. HACC may use the following documentation and certification from the family:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4B2 documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA/MFH Owner), for example:
  - Year-end statement
  - Paycheck with year-to-date amount
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or HACC notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income.

### **Applying the Current SSA COLA at Next Annual and Interim Reexamination**

**Regulations:** 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at [www.socialsecurity.gov](http://www.socialsecurity.gov).

Effective the day after SSA has announced the COLA, HACC is required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

### **De Minimis Errors**

**Regulations:** 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

HACC will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when HACC's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. HACC will not be issued a finding by HUD or the Contract Administrator (MFH only) for de minimis errors in income calculation.

As HACC becomes aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. HACC must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when HACC makes de minimis errors in the income determination. Families will not be required to repay HACC in instances where HACC miscalculated income resulting in a family being undercharged for rent.

## 9.2 *INCOME*

### **Annual Income**

**Regulations:** 24 CFR §§ 5.609(a)(1)–(a)(2); and 891.105

Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker are included in annual income regardless of age, unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

**Note:** Annual income includes "all amounts received," not the amount that a family **may be** legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed \$50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets. HACC will not impute income from assets if the total value of net family assets is equal to or less than \$50,000 (as adjusted by inflation).

### **Earned Income**

**Regulation:** 24 CFR § 5.100

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

**Definition of Day Labor**

**Regulation:** 24 CFR § 5.603(b)

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24).

**Definition of Independent Contractor**

**Regulation:** 24 CFR § 5.603(b)

An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered “gig workers,” such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

Income earned as an independent contractor is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

**Definition of Seasonal Worker**

**Regulation:** 24 CFR § 5.603(b)

A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry.

## **Definition of Unearned Income**

**Regulation:** 24 CFR § 5.100

Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

## **Assets**

Asset requirements in 24 CFR §§ 5.603 and 5.609 apply to HCV (including Project-Based Vouchers and all special purpose vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO, and MFH programs.

## **Determining Net Family Assets**

**Regulations:** 24 CFR §§ 5.100 and 5.603

Net family assets are defined as the net cash value of **all assets owned by the family**, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment,

Assets with negative equity. The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. F1 Real property, as used in 24 CFR Part 5, has the same meaning as that provided under the state law in which the real property is located.

Assets disposed of for less than fair market value. In determining the value of net family assets, PHAs/MFH Owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust,F2 but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Asset owned by business entity. If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net

family assets (e.g., one-third of the value of the restaurant).  
Jointly owned assets. For assets jointly owned by the family and one or more individuals outside of the assisted family, HACC must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see F.4.b of this notice), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded or unless the family demonstrates that they do not have access to

A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

#### **Exclusions from Net Family Assets**

**Regulations:** 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property.
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation.
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions

from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.

- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.

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- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- The full amount of assets held in an irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph F.4.d (Trusts) of this notice)

### **Necessary and Non-Necessary Personal Property**

#### **Regulation: 24 CFR § 5.603**

Necessary personal property is excluded from net family assets. Non necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. For example, a family could have non necessary personal property with a combined value that does not exceed \$50,000 but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable

existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs/MFH Owners to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property. **This is not an exhaustive list.**

**Examples of Necessary and Non-Necessary Personal Property**

| Necessary Personal Property | Non-Necessary Personal Property: |
|-----------------------------|----------------------------------|
|-----------------------------|----------------------------------|

- |  |  |
|--|--|
| <input type="checkbox"/> Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) |  |
| <input type="checkbox"/> Furniture, carpets, linens, kitchenware   |  |
| <input type="checkbox"/> Common appliances   |  |
| <input type="checkbox"/> Common electronics (e.g., radio, television, DVD player, gaming system)   |  |
| <input type="checkbox"/> Clothing  |  |
| <input type="checkbox"/> Personal effects that are not luxury items (e.g., toys, books)  |  |
| <input type="checkbox"/> Wedding and engagement rings  |  |
| <input type="checkbox"/> Jewelry used in religious/cultural celebrations and ceremonies  |  |
| <input type="checkbox"/> Religious and cultural items  |  |
| <input type="checkbox"/> Medical equipment and supplies  |  |
| <input type="checkbox"/> Health care-related supplies  |  |
| <input type="checkbox"/> Musical instruments used by the family  |  |
| <input type="checkbox"/> Personal computers, phones, tablets, and related equipment  |  |
| <input type="checkbox"/> Professional tools of trade of the family, for example professional books   |  |
| <input type="checkbox"/> Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities                    |  |
| <input type="checkbox"/> Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)                                     |  |
| <input type="checkbox"/> Recreational car/vehicle not needed for day-to-day transportation (campers,   |  |

motorhomes, travel trailers, all-terrain vehicles (ATVs))

- Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)
- Recreational boat/watercraft
- Expensive jewelry without religious or cultural value, or which does not hold family significance
- Collectibles (e.g., coins/stamps)
- Equipment/machinery that is not used to generate income for a business
- Items such as gems/precious metals, antique cars, artwork, etc.

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### **Necessary and Non-Necessary Personal Property**

The Cross family owns three items of personal property. The family has a checking account valued at \$5,000, a \$15,000 recreational boat, and Ms. Cross's \$3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property.

They are worth a combined \$20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than \$50,000, the family's non-necessary personal property will not be considered when calculating the Cross family's net family assets.

Cross Family's Personal Property

### **Item Estimated Value Type Amount to be considered as unnecessary personal property**

Checking account \$5,000 Non-necessary  
Personal Property \$5,000  
Ring (engagement ring) \$3,000 Necessary Personal  
Property \$0  
Recreational boat \$15,000 Non-necessary  
Personal Property \$15,000  
Total Non-necessary Personal Property: \$20,000  
Calculation of Cross Family's Total Net Assets

### **Asset Total to be Considered in Net Family Assets**

Non-necessary Personal Property \$0  
Real Property \$0  
Total: \$0  
The Cross family's total net family assets are \$0.

### **Trusts**

**Summary:** Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and
- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

### **Trusts as Net Family Assets**

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) is included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. This also means that HACC will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

### **Actual Income from a Trust**

If HACC determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income.

Where an irrevocable trust is excluded from net family assets, HACC must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

### **Trust Distributions and Annual Income**

- Revocable trust considered part of net family assets:** If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.

**Revocable or irrevocable trust not considered part of net family assets:** If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

### **Federal Tax Refunds or Refundable Tax Credits**

**Regulation:** 24 CFR § 5.603

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0. If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for HACC to subtract the amount of the deposit from the value of the excluded asset).

Only the amount that the family receives is excluded from net family assets.

For example, if a family anticipates a \$500 federal tax refund but only receives \$250, then only \$250 will be excluded from the net family assets because that is the amount that the family received.

HACC is not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA/MFH owner does not accept self-certification of assets. PHAs/MFH Owner must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

### **Nonrecurring Income**

**Regulation:** 24 CFR §§ 5.609(b)(24) and CFR 891.105

The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

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. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded

from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

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. For example, an increasing number of cities and states are piloting guaranteed income programs that have discrete beginning and end dates. 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.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

HACC may accept a self-certification from the family stating that the income will not be repeated in the coming year.

### **Student Financial Assistance**

**Regulation:** 24 CFR § 5.609(b)(9)

**Summary:** The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to MFH and PIH programs are described below.

**Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)**

Certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

**Other Student Financial Assistance**

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or
- Gifts, including gifts from family or friends.

**Note:** Other student financial assistance may be paid directly to the student or to

the educational institution on the student's behalf. The PHA/MFH Owner must verify that the other student financial assistance is for the student's actual covered costs.

### **Elimination of the Earned Income Disregard (EID)**

**Regulation:** 24 CFR § 5.611

**Summary:** The Earned Income Disregard (EID) will not apply to any family who is not eligible for **and already participating in** the disallowance as of December 31, 2023. The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID)) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). For more information about JPEID waivers and alternative requirements, please review the following *Federal Register* notices: [80 FR 13415](#) (March 13, 2015) and [83 FR 13506](#) (March 29, 2018).

### **Civil Rights Settlements or Judgments**

**Regulation:** 24 CFR § 5.609(b)(25)

Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead, may have a payment schedule, such payments are excluded. Additionally, this

exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

### **9.3 EXCLUSIONS FROM INCOME**

Effective July 1, 2024

HACC must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

The dependent deduction amount is \$480. This amount will be adjusted annually and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner. Not later than September 1 annually, HUD will publish the CPI-W adjusted dependent deduction to the HUDUser Web site. HACC must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

#### **Elderly/Disabled Family Deduction**

**Regulation:** 24 CFR § 5.611(a)(2)

The elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner. The amount of the deduction will be adjusted annually. Not later than September 1 annually, HUD will publish the CPI-W adjusted elderly/disabled family deduction to the HUDUser Web site. HACC must implement the adjusted elderly/disabled family deduction for all income examinations that are effective on January 1 or later.

#### **Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction**

##### **New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses**

**Regulation:** 24 CFR § 5.611(a)(3)

The sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

##### **New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction**

**Regulation:** 24 CFR § 5.603

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for

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treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families. Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502c2 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. HACC must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

**Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses**

**Regulation:** 24 CFR § 5.611(a)(3)(ii)

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

**Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses**

**Regulations:** 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

The threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim

**unreimbursed health and medical care expenses**, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim **unreimbursed reasonable attendant care and auxiliary apparatus expenses**, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend, or conclude a hardship exemption only, HACC will process and submit a non-interim reexamination transaction.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

**Note:** A family receiving phased-in relief may request to receive general hardship relief instead; **once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.**

### **Phased-In Relief**

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after January 1, 2024. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the HACC will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction. The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

### **Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction**

**Regulation:** 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source.

A stipend from the child welfare agency), age 12 and younger, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational));
- The expense is not reimbursed by an agency or individual outside the household; and
- The expenses incurred to enable a family to work do not exceed the amount of employment income that is included in annual income.

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

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, HACC must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the HACC'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 working, looking for work, or furthering their education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. HACC, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, HACC will submit a non-interim transaction code on form HUD-50058/ HUD-50059, unless there is an accompanying event that triggers an interim reexamination.

### **Definition of Family**

**Regulation:** 24 CFR § 5.403

The definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
- 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.

The definition of “family” in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of “single persons.” Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

### **New Definitions of Foster Adult and Foster Child**

**Regulation:** 24 CFR § 5.603

Definitions for “foster adult” and “foster child.” A foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a foster adult 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.

A foster child is defined as 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.

Foster adults/children are not considered **family members** and must not be included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered **household members** and must be included when determining unit size or subsidy standards based on established policies.

The definition of “dependent” under § 5.603 was revised to explicitly **exclude** foster children and foster adults. HACC may not provide a dependent deduction under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses used in the determination of annual income. Reasonable unreimbursed child-care expenses (as defined in § 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education.

Families may be eligible to continue to receive the child-care expense deduction, pursuant to a hardship exemption, when the unreimbursed child-care expense is for the care of a foster child under the age of 13, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family’s annual income (and not another source, such as a stipend from a child welfare agency).

When a member of an assisted family is temporarily placed in foster care (as confirmed

by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child or adult in another household and receiving consideration in both families' voucher size and/or unit size.

### **Alignment of Family Member Definition Across Programs**

**Regulations:** 24 CFR §§ 5.403; 5.603; and 5.609

Family assets of household members are excluded when determining initial eligibility or eligibility for continued assistance; however, household members are considered for purposes of unit size and subsidy standards. For example, a live-in aide must be considered for bedroom size requirements for a unit, but their income and expenses would not be included for the purposes of income eligibility and assistance levels. Household members do not qualify for expenses or deductions, except that reasonable unreimbursed child-care expenses may be deducted for foster children under the age of 13 if it enables a member of the family to work, look for work, or go to school.

## **INTERIM REEXAMINATIONS**

A family may request an interim determination of family income or composition because of any changes since the last determination. HACC must conduct any interim reexamination within a reasonable period of time after the family request or when HACC becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but HACC generally should conduct the interim reexamination not longer than 30 days after HACC becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations.

When HACC determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that HACC maintains documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed.

### **Decreases in Adjusted Income**

**Regulations:** 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

A family may request an interim determination of family income for **any** change since the last determination. However, HACC may decline to conduct an interim reexamination of family income if the PHA/MFH Owner estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income. HACC has the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

HACC must conduct an interim reexamination of family income when the HACC becomes aware that a family's annual adjusted income has changed by an amount that HACC estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by HACC's Administrative Plan. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

### **Policies for Families to Report Changes to Annual Adjusted Income or Household Composition**

**Regulations:** 24 CFR §§ 5.657(c)(4); 882.515(b)(1)– (4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

**HACC** must require families to report **household composition changes**; however, HACC determine the timeframe in which reporting happens. PHAs/MFH Owners must develop policies that describe when and under what conditions families must report **changes in annual adjusted income** consistent with the new requirements for processing interim reexaminations. HACC is responsible for educating families on the requirements for reporting changes. Families are responsible for reporting these changes to HACC within 10 days.

### **Processing Time Period for Interim Reexaminations**

**Regulations:** 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

The updated regulations codified long-standing guidance on how long PHAs/MFH Owners should take to process an interim reexamination. Families may request an interim determination of income or household composition because of any changes since the last determination. HACC may decline to conduct an interim reexamination of family income if they estimate the family's annual adjusted income will change by less than 10 percent, when the PHA/MFH Owner conducts an interim reexamination, it must be conducted within a reasonable period after the family's request or after the PHA/MFH Owner becomes aware of an increase in the family's adjusted income.

### **Effective Date of Interim Rent Changes**

**Regulations:** 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

- **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to HACC's policies, then HACC must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

- **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition within 10 days, according to HACC's policy, policies, HACC must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. HACC may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination. PHAs/MFH Owners may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA).

HACC must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, HACC must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. In the HCV program, the PHA must also clearly communicate the effect of the retroactive adjustment to the owner as well. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination.

An exception to the requirement HACC has to implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist if a PHA/MFH Owner failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example I4, scenario D, below.

### **Fully Excluded Income:**

Income that is fully excluded means the entire amount qualifies 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)(i) and 24 CFR 982.516(a)(2); and
- Report the income in Section 7 of the form HUD-50058.

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

Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income from a live-in aide.

For a complete list of income exclusions, see 24 CFR 5.609(c).

### **Partially Excluded Income:**

Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income.

For partially excluded income, HACC will:

- Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income; and
- Report the income in Section 7 of the form HUD-50058. The example below shows how the

partially excluded income for a full-time student should be reported on the form HUD-50058.

Examples of partially excluded income that are subject to regular verification requirements include:

- The Department of Veterans Affairs "Aid and Attendance" benefits – in accordance with 24 CFR 5.609(c)(4), these benefits may be excluded from income if they are used "specifically for, or in reimbursement of, the cost of medical expenses for any family member." Live-in or periodic medical assistance and services of doctors and health care professionals are among the services that may be counted as medical expenses. The PHA must verify the amount provided for aid and attendance medical expenses and the amount being used by the veteran for such expenses.

Any portion of the benefit not used for such expenses would continue to be counted as income by HACC when determining the family's annual income.

- Earnings in excess of \$480 for full-time students 18 years old or older (24 CFR 5.609(c) (11) – to determine the amount of earnings to include in the calculation of the family's annual income, the PHA must verify the amount of employment income for these family members.

For a complete list of income exclusions, see 24 CFR 5.609(c).

Annual income does not include the following:

- A. Income from employment of children (including foster children) under the age of 18 years;
- B. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- C. Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- D. Amounts received by the family, that is specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- E. Income of a live-in aide;
- F. The full amount of student financial assistance paid directly to the student or to the educational institution;
- G. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- H. The amounts received from the following programs:
  - 1. Amounts received under training programs funded by HUD;
  - 2. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - 3. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program;

4. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiative coordination. No resident may receive more than one such stipend during the same period of time;
5. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program;
6. Temporary, nonrecurring, or sporadic income (including gifts);
7. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
8. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
9. Adoption assistance payments in excess of \$480 per adopted child;
10. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;
11. Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
12. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
13. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits.

These exclusions include:

- a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- b. Payments to Volunteers under the domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- h. The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
- i. Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- j. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
- k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.);

- l. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- m. The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));
- o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95–433);
- p. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- q. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- s. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

#### **9.4 DEDUCTIONS FROM ANNUAL INCOME**

The following deductions will be made from annual income:

- A. \$480 for each dependent
- B. \$400 for any elderly family or disabled family
- C. The sum of the following, to the extent the sum exceeds three percent of annual income:

1. Unreimbursed medical expenses of any elderly family or disabled family; and
  2. 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 (including the member who is a person with disabilities) to be employed, but this allowance may not exceed the earned income received by family members who are 18 years of age or older who are able to work because of such attendant care or auxiliary apparatus; and
- D. Reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education. This deduction shall not exceed the amount of employment income that is included in annual income.
- E. For persons with disabilities, the incremental earnings due to employment during a cumulative 12-month period following date of the initial hire shall be excluded. This exclusion is only available to the following families:
1. Families whose income increases as a result of employment of a disabled family member who was previously unemployed (defined as working less than 10 hours a week at the established minimum wage) for one or more years.
  2. Families whose income increases during the participation of a disabled family member in any economic self-sufficiency or other job-training program.
  3. Persons with disabilities who are or were, within 6 months, assisted under State TANF or Welfare-to-Work program for at least \$500.00.  
During the second cumulative 12-month period after the date of initial hire, 50% of the increased income shall be excluded from income.

The disallowance of increased income of an individual family member is limited to a lifetime 48-month period. It only applies for 12 months of the 100% exclusion and 12 months of the 50% exclusion. (effective 5.21.01).

### ***9.5 RECEIPT OF A LETTER OR NOTICE FROM HUD CONCERNING INCOME***

- A. If a Section 8 participant receives a letter or notice from HUD concerning

the amount or verification of family income, the letter shall be brought to the person responsible for income verification within thirty (30) days of receipt by the participant.

- B. The HACC Director, or authorized designee, shall reconcile any difference between the amount reported by the participant and the amount listed in the HUD communication. This shall be done as promptly as possible.
- C. After the reconciliation is complete, HACC shall adjust the participant's rental contribution beginning at the start of the next month unless the reconciliation is completed during the final five (5) days of the month and then the new rent shall take effect on the first day of the second month following the end of the current month. In addition, if the participant had not previously reported the proper income, HACC shall do one of the following:
  - 1. Immediately collect the back over paid assistance paid by the agency;
  - 2. Establish a repayment plan for the resident to pay the sum due to the agency;
  - 3. Terminate the participant from the program for failure to report income; or
  - 4. Terminate the participant from the program for failure to report income and collect the back over paid assistance paid by the agency.

## **9.6 COOPERATING WITH WELFARE AGENCIES**

HACC will make its best efforts to enter into cooperation agreements with local welfare agencies under which the welfare agencies will agree:

- A. To target assistance, benefits and services to families receiving assistance in the public housing and Section 8 tenant-based assistance program to achieve self-sufficiency.
- B. To provide written verification to HACC concerning welfare benefits for families applying for or receiving assistance in our housing assistance programs.

## **9.7 Amendment to the Definition of Tuition**

### **I. Purpose**

The definition of tuition found in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A) which is used in both Multifamily Housing and Public and Indian Housing (PIH) programs. The *Supplementary Guidance* states that “tuition shall have the meaning given this term by the institution of higher

education in which the student is enrolled. Tuition will now be defined in the same manner in which the Department of Education defines “tuition and fees.” The term “tuition” is defined in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A). Multifamily Housing programs define the term tuition in HUD Handbook 4350.3 REV-1.

### **Amended Definition of Tuition as Defined by the Department of Education**

The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student’s major or program (i.e., nursing program). Expenses related to attending an institution of higher education must **not** be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (**in excess of amounts received for tuition and any other required fees and charges**) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

### **Applicability**

All provisions of this notice apply to owners and management agents (O/As) and public housing authorities (PHAs) administering the following covered programs under section 8 of the United States Housing Act of 1937:

- A. Project-based Section 8
  1. New Construction
  2. State Agency Financed
  3. Substantial Rehabilitation
  4. Section 202/8
  5. Rural Housing Services Section 515/8

6. Loan Management Set-Aside (LMSA)

7. Property Disposition Set-Aside (PDSA)

B. Section 8 Housing Choice Voucher (including Project-Based Voucher and Project-Based Certificate)

C. Moderate Rehabilitation

In programs, other than HUD's section 8 programs, that follow the definition of annual income in 24 CFR part 5 (e.g. the Public Housing program), PHAs and other grantees may continue to exclude the full amount of student financial assistance from a person's annual income in accordance with 24 CFR § 5.609(c)(6).

The amended definition of tuition applies to all HUD programs. The income determination and verification requirements may also apply to other HUD programs that follow 24 CFR part 5

### **Income Determination**

In implementing the amended definition of tuition, for section 8 programs only, O/As and PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).

Under other programs, such as the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income pursuant to 24 CFR § 5.609(c)(6).

#### *Example:*

Kim, a 22-year-old, married, participant in a Section 8 program is enrolled in a nursing program at her local community college. She is receiving \$7,000 in financial assistance to cover the full cost of tuition and fees of \$6,000 for the academic year. The \$6,000 includes:

- \$2,500 in tuition per semester (total \$5,000) *plus*
- \$500 in individual fees (total \$1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the excess \$1,000 (\$7,000 - \$6,000) Kim received in financial assistance will be included in her annual income in accordance with 24 CFR 5.609(b)(9).

Under HUD's previous definition of tuition, Kim's housing authority might have considered her financial assistance to be in excess of \$2,000 if her college's definition of tuition did not include fees. Under HUD's new definition, Kim's

housing authority will determine her excess financial assistance to be \$1,000 rather than \$2,000 because the required fees and charges are included with tuition. Using the same example, if Kim was a participant in the Public Housing program, the full amount of financial assistance she received would be excluded from her income in accordance with 24 CFR § 5.609(c)(6).

### **Verification of Tuition and Fees**

O/As and PHAs must verify the amounts of tuition and required fees charged by the school when determining annual income. O/As and PHAs may wish to verify those amounts using the student's bill or account statement (including an online account statement) as provided by the school's bursar's office, or by contacting the bursar's office directly. It is also recommended that you visit the school's website as many institutions of higher education provide an itemized list covering tuition and fees that are charged to a majority of their students on their websites.

## **9.8 Asset Limitation**

Per requirements in Section 104 of HOTMA, 24 CFR 5.618 creates a restriction on the eligibility of a family to receive assistance if the family owns real property that is suitable for occupancy by the family as a residence or has assets in excess

of \$100,000, as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

Pursuant to 24 CFR 5.618(c), HACC is given discretion at reexamination in enforcing the asset limitation on eligibility for assistance in § 5.618(a). HUD will issue additional guidance on the use of this discretionary authority.

## **10.0 VERIFICATION**

HACC will verify information related to waiting list preferences, eligibility, admission and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations, full time student status of family members 18 years of age and older, Social Security Numbers, citizenship/eligible immigration status.

### **10.1 ACCEPTABLE METHODS OF VERIFICATION**

Age, relationship, U.S. citizenship, and Social Security Numbers will generally be verified with documentation provided by the family. For citizenship/eligible non-citizen documentation is required. Verification of these items will include making copies of Birth Certificates, Immigration Documents, Social Security cards and other documents presented by the family, the INS SAVE approval code, and forms

signed by the family.

Other information will be verified by third party verification. This type of verification includes written documentation (with forms sent directly to and received directly from a source, not passed through the hands of the family). This verification may also be direct contact with the source, in person or by telephone. It may also be a report generated by a request from HACC or automatically by another government agency, i.e. the Social Security Administration. Verification forms and reports received will be contained in the applicant/tenant file. Oral third-party documentation will include the same information as if the documentation had been written, i.e. name date of contact, amount received, etc.

When third party verification cannot be obtained, HACC will accept documentation received from the applicant/participant. Hand-carried documentation will be accepted if HACC has been unable to obtain third party verification in a four-week period. Photocopies of the documents provided by the family will be maintained in the file.

When neither third-party verification nor hand-carried verification can be obtained, the HACC will accept a notarized statement signed by the head, spouse or co-head. Such documents will be maintained in the file.

**10.2 TYPES OF VERIFICATION**

The chart below outlines the factors that may be verified and gives common examples of the verification that will be sought. To obtain written third-party verification, HACC will send a request form to the source along with a release form signed by the applicant/participant via first class mail.

| Verification Requirements for Individual Items |   |  |
|--|---|--|
| Item to Be Verified                            | 3 <sup>rd</sup> party verification              | Hand-carried verification  |
| <b>General Eligibility Items</b>               |   |  |
| Social Security Number                         | Letter from Social Security, electronic reports | Social Security card   |
| Citizenship                                    | N/A   | Signed certification, voter's registration card, birth certificate, etc. |
| Eligible immigration status                    | INS SAVE confirmation #                         | INS card   |
| Disability                                     | Letter from medical professional, SSI, etc.     | Proof of SSI or Social Security disability payments                      |
| Full time student status (if                   | Letter from school                              | For high school students, any  |

|  |  |   |
|--|--|---|
| >18)   |  | document evidencing enrollment  |
| Need for a live-in aide                            | Letter from doctor or other professional knowledgeable of condition  | N/A   |
| Childcare costs                                    | Letter from care provider  | Bills and receipts  |
| Disability assistance expenses                     | Letters from suppliers, care givers, etc.  | Bills and records of payment  |
| Medical expenses                                   | Letters from providers, prescription record from pharmacy, medical professional's letter stating assistance, or a companion animal is needed | Bills, receipts, records of payment, dates of trips, mileage log, receipts for fares and tolls  |
| <b>Value of and Income from Assets</b>             |  |   |
| Savings, checking accounts                         | Letter from institution  | Passbook, most current statements. Savings accounts will be calculated on actual amount in account. Checking accounts will be calculated by averaging the most recent three-month statements. |
| CDs, bonds, etc.                                   | Letter from institution  | Tax return, information brochure from institution, the CD, the bond   |
| Stocks   | Letter from broker or holding company  | Stock or most current statement, price in newspaper or through Internet   |
| Real property                                      | Letter from tax office, assessment, etc.   | Property tax statement (for current value), assessment, records or income and expenses, tax return  |
| Personal property                                  | Assessment, bluebook, etc.   | Receipt for purchase, other evidence of worth   |
| Cash value of life insurance policies              | Letter from insurance company  | Current statement   |
| Assets disposed of for less than fair market value | N/A  | Original receipt and receipt at disposition, other evidence of  |

|   |  |   |
|---|--|---|
|   |  | worth   |
| <b>Income</b>   |  |   |
| Earned income   | Letter from employer   | Multiple pay stubs  |
| Self-employed   | N/A  | Tax return from prior year, books of accounts                       |
| Regular gifts and contributions   | Letter from source, letter from organization receiving gift (i.e., if grandmother pays day care provider, the day care provider could so state)  | Bank deposits, other similar evidence                               |
| Alimony/child support   | Court order, letter from source, letter from Human Services  | Record of deposits, divorce decree                                  |
| Periodic payments (i.e., social security, welfare, pensions, workers' comp, unemployment) | Letter or electronic reports from the source   | Award letter, letter announcing change in amount of future payments |
| Training program participation  | Letter from program provider indicating<br>- whether enrolled<br>- whether training is HUD-funded<br>- whether State or local program<br>- whether it is employment training<br>- whether payments are for out-of-pocket expenses incurred to participate in a program | N/A   |

HACC will accept a family’s self-declaration of the amount of assets if the assets are equal to or below \$5,000 and the amount of income expected to be received from those assets. The PHA’s application and reexamination documentation, which is signed by all adult family members, can serve as self-declaration. HACC will not need to request supporting documentation from the family to confirm assets or the amount of income expected to be received from those assets. If the net family assets are in excess of \$5,000, HACC must obtain supporting documentation from the family to confirm the assets.

**10.3 VERIFICATION OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS**

The citizenship/ eligible noncitizen status of each family member regardless of age must be determined. Prior to being admitted, or at the first reexamination, all citizens and nationals will be required to sign a declaration under penalty of perjury.

(They will be required to show proof of their status by such means as Social Security card, birth certificate, military ID or military DD 214 Form, immigration documents.)

Prior to being admitted or at the first reexamination, all eligible non-citizens who are 62 years of age or older will be required to sign a declaration under penalty of perjury. They will also be required to show proof of age.

Prior to being admitted or at the first reexamination, all eligible non-citizens must sign a declaration of their status and a verification consent form and provide their original INS documentation. HACC will make a copy of the individual's INS documentation and place the copy in the file. HACC also will verify their status through the INS SAVE system. If the INS SAVE system cannot confirm eligibility, HACC will mail information to the INS, so a manual check can be made of INS records.

Family members who do not claim to be citizens, nationals or eligible non-citizens, or whose status cannot be confirmed, must be listed on a statement of non-eligible members and the list must be signed by the head of the household.

Non-citizen students on student visas, though in the country legally, are not eligible to be admitted to the Section 8 Program.

Any family member who does not choose to declare their status must be listed on the statement of non-eligible members.

If no family member is determined to be eligible under this Section, the family's admission will be denied.

The family's assistance will not be denied, delayed, reduced or terminated because of a delay in the process of determining eligible status under this Section, except to the extent that the delay is caused by the family.

If HACC determines that a family member has knowingly permitted an ineligible non-citizen (other than any ineligible non-citizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.

#### **10.4 VERIFICATION OF SOCIAL SECURITY NUMBERS**

Prior to admission, each family member who has a Social Security Number and who is at least six years of age must provide verification of his or her Social Security Number. New family members at least six years of age must provide this verification prior to being added to the lease. Children in assisted households must provide this verification at the first regular reexamination after turning six.

A 90-day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the Housing Authority of Cochise County determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for an SSN, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, the Housing Authority of Cochise County or processing entity must impose appropriate penalties, in accordance with 24 CFR 5.218.

In terms of offering a grace period and an extension, if merited, HACC will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission. If the SSN has still not been verified at the end of the initial 90-day period, then the HACC must determine whether a 90-day extension is merited. If it is not merited, then the HACC must follow the provisions of 24 CFR 5.218. If a 90-day extension is merited, then the PHA must either verify the SSN for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218.

The best verification of the Social Security Number is the original Social Security card. If the card is not available, HACC will accept letters from Social Security that establish and state the number. Documentation from other governmental agencies will also be accepted that establish and state the number. Driver's license, military ID, passports, or other official documents that establish and state the number are also acceptable.

If an individual states that they do not have a Social Security Number, they will be required to sign a statement to this effect. HACC will not require any individual who does not have a Social Security Number to obtain a Social Security Number.

If a member of an applicant family indicates they have a Social Security Number, but cannot readily verify it, the family cannot be assisted until verification is provided.

If a member of a tenant family indicates they have a Social Security Number, but cannot readily verify it, they shall be asked to certify to this fact and shall up to 60 days to provide the verification. If the individual is at least 62 years of age, they will be given 120 days to provide the verification. If the individual fails to provide the verification within the time allowed, the family will be denied assistance or will have their assistance terminated.

## **10.5 TIMING OF VERIFICATION**

Verification must be dated within 90 days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

When an interim reexamination is conducted, the Housing Authority will verify and update only those elements reported to have changed.

#### **10.6 FREQUENCY OF OBTAINING VERIFICATION**

For each family member, citizenship/eligible non-citizen status will be verified only once. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, their status will be verified.

For each family member age 6 and above, verification of Social Security Number will be obtained only once. This verification will be accomplished prior to admission. When a family member who did not have a Social Security Number at admission receives a Social Security Number, that number will be verified at the next regular reexamination. Likewise, when a child turns six, their verification will be obtained at the next regular reexamination.

### **11.0 RENT AND HOUSING ASSISTANCE PAYMENT**

#### **11.1 GENERAL**

After October 1, 1999, HACC will issue only vouchers to applicants, movers, and families entering the jurisdiction through portability.

#### **11.2 RENT REASONABLENESS**

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises.

Reasonableness is determined prior to the initial lease and at the following times:

- A. Before any increase in rent to owner is approved at the time of annual renewal of the lease, when the tenant continues to reside in the same unit;

**PHA Policy:**

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

The PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing. All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

- B. If 60 days before the contract anniversary date there is a 5% decrease in the published FMR as compared to the previous FMR; and
- C. If the Housing Authority or HUD directs that reasonableness be re-determined.

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

**11.3 COMPARABILITY**

In making a rent reasonableness determination, the Housing Authority will compare the rent for the unit to the rent of comparable units in the same or comparable neighborhoods. The Housing Authority will consider the following factors:

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

The Housing Authority will maintain current survey information on rental units in the jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census

tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database. The Housing Authority will also obtain from landlord associations and management firms the value of the array of amenities.

Owners are invited to submit information to the survey at any time. Owners may review the determination made on their unit and may submit additional information or make improvements to the unit that will enable the Housing Authority to establish a higher value.

The owner must certify the rents charged for other units. By accepting the housing assistance payment each month, the owner is certifying that the rent to owner is not more than the rent charged by the owner for comparable unassisted units in the premises.

#### **Units that Must Not be Used as Comparable**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

#### **11.4 MAXIMUM SUBSIDY**

The Fair Market Rent (FMR) published by HUD determines the maximum subsidy for a family.

For a regular tenancy under the Tenant Based Certificate Program, the FMR is the maximum initial gross rent under the assisted lease. This only applies until the transition of the merger of the Section 8 Certificate and Voucher programs as outlined in 24 CFR 982.502 is complete.

For the Voucher Program, the maximum payment standard will be 110% of the FMR without prior approval from HUD, or the exception payment standard approved by HUD.

For a voucher tenancy in an insured or noninsured 236 project, a 515 project of the Rural Development Administration, or a Section 221(d)(3) below market interest rate project the payment standard may not exceed the basic rent charged including the cost of tenant-paid utilities.

For manufactured home space rental, the maximum subsidy under any form of assistance is the Fair Market Rent for the space as outlined in 24 CFR 982.888.

### ***11.5 SETTING THE PAYMENT STANDARD***

HUD requires that the payment standard be set by the Housing Authority at between 90 and 110% of the FMR. HACC will review its determination of the payment standard annually after publication of the FMRs. HACC will consider vacancy rates and rents in the market area, size and quality of units leased under the program, rents for units leased under the program, success rates of voucher holders in finding units, and the percentage of annual income families are paying for rent under the Voucher Program. If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships.

Payment standards will not be raised solely to allow the renting of luxury quality units.

If success levels are projected to be extremely high and rents are projected to be at or below 30% of income, the Housing Authority will reduce the payment standard. Payment standards for each bedroom size are evaluated separately so that the payment standard for one-bedroom size may increase or decrease while another remains unchanged. HACC may consider adjusting payment standards at times other than the annual review when circumstances warrant.

Before increasing any payment standard, the Housing Authority will conduct a financial feasibility test to ensure that in using the higher standard, adequate funds will continue to be available to assist families in the program.

HACC may approve a payment standard of not more than 120 percent of the FMR without HUD approval if required as a reasonable accommodation for a family that includes a person with disabilities. This provision applies to the HCV program only and allows a HACC to establish a payment standard within limits currently permitted but designated for approval only by a HUD Field Office (24 CFR 982.503(c)(2)(B)(ii)). For any voucher unit assisted under the program, HACC must perform a rent reasonableness determination in accordance with the section 8(o) (10) of the U.S. Housing Act of 1937 and the HCV program regulations. HACC must maintain documentation that the PHA performed the required rent reasonableness analysis. In addition, the PHA must maintain documentation that that the unit has the feature(s) required to meet the needs of the person with disabilities.

### ***11.6 SELECTING THE CORRECT PAYMENT STANDARD FOR A FAMILY***

A. For the voucher tenancy, the payment standard for a family is the lower of:

1. The payment standard for the family unit size; or

2. The payment standard for the unit size rented by the family.
- B. If the unit rented by a family is located in an exception rent area; the Housing Authority will use the appropriate payment standard for the exception rent area.
  - C. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:
    1. The initial payment standard (at the beginning of the lease term) minus any amount by which the initial rent to owner exceeds the current rent to owner; or
    2. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.
  - D. At the next annual reexamination following a change in family size or composition during the HAP contract term and for any reexamination thereafter, paragraph C above does not apply.
  - E. If there is a change in family unit size resulting from a change in family size or composition, the new family unit size will be considered when determining the payment standard at the next annual reexamination.

### ***11.7 ASSISTANCE AND RENT FORMULAS***

A. Total Tenant Payment

The total tenant payment is equal to the highest of:

1. 10% of monthly income
2. 30% of adjusted monthly income
3. Minimum rent
4. The welfare rent

Plus, any rent above the payment standard.

B Minimum Rent.

The minimum family contribution towards rent is the higher of \$50 or 10 percent of monthly unadjusted income. If the \$50 "minimum rent" amount is being used, families will be notified of their right to request a minimum rent hardship exception, and the documentation required to verify the claim. If the request is denied, the family will be notified

of their right to an informal hearing.

A hardship exception may be granted for the following reasons:

1. Family has lost eligibility or is awaiting eligibility determination for a federal, State or local assistance program.
2. Family will be evicted as a result of the imposition of the minimum rent requirement.
3. Family income has decreased because of changed circumstances, Including loss of employment.
4. Death in the family.
5. Other circumstances as determined by HACC.

If the financial hardship is temporary in nature, the \$50 minimum rent may be suspended for up to 90 days. However, after the 90-day period is over, the family will be required to repay the suspended amount back to HACC. If the hardship is of longer duration, no repayment will be required.

C. Section 8 Merged Vouchers

1. The payment standard is set by the Housing Authority between 90% and 110% of the FMR or higher or lower with HUD approval.
2. The participant pays the greater of the Total Tenant Payment or the minimum rent, plus the amount by which the gross rent exceeds the payment standard.
3. No merged voucher participant when initially receiving tenant-based assistance on a unit shall pay more than 40% of their monthly-adjusted income.

D. Section 8 Preservation Vouchers

1. Payment Standard
  - a. The payment standard is the lower of:
    - i. The payment standard amount for the appropriate family unit size; or
    - ii. The payment standard amount for the size of the dwelling unit actually rented by the family.

- b. During the HAP contract term, the payment standard for the family is the higher of:
  - i. The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraph (1)(a) or (1)(b) of this section, minus any amount by which the initial rent to the owner exceeds the current rent to the owner; or
  - ii. The payment standard as determined in accordance with paragraph (1)(a) or (1)(b) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.
- c. At the next regular reexamination following a change in family composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:
  - i. Paragraph (c)(i) of this section does not apply; and
  - ii. The new family unit size must be used to determine the payment standard.
- 1. HACC will pay a monthly housing assistance payment on behalf of the family that equals the lesser of:
  - a. The payment standard minus the total tenant payment; or
  - b. The gross rent minus the total tenant payment.
- E. Manufactured Home Space Rental: Section 8 Vouchers
  - 1 The payment standard for a participant renting a manufactured home space is the published FMR for rental of a manufactured home space.
  - 2 The space rent is the sum of the following as determined by the Housing Authority:
    - a. Rent to the owner for the manufactured home space;
    - b. Owner maintenance and management charges for the space; and
    - c. Utility allowance for tenant paid utilities.

3. The participant pays the rent to owner less the HAP.
4. HAP equals the lesser of:
  - a. The payment standard minus the total tenant payment; or
  - b. The rent paid for rental of the real property on which the manufactured home owned by the family is located.

#### F. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES

Prorations of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 10, 1995, and who do not qualify for continued assistance must be offered prorated assistance. Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995 by addition of an ineligible members are entitled to prorated assistance.

If a mixed family qualifies for prorated assistance but decides not to accept it or if the family has no eligible members, the family may be eligible for temporary deferral of termination of assistance to permit the family additional time for the orderly transition of some or all of its members to locate other affordable housing. Under this provision the family receives full assistance. If assistance is granted under this provision prior to November 29, 1996, it may last no longer than three years. If granted after that date, the maximum period of time for assistance under the provision is 18 months. HACC will grant each family a period of 6 months to find suitable affordable housing. If the family cannot find suitable affordable housing, HACC will provide additional search periods up to the maximum time allowable.

Suitable housing means housing that is not substandard and is of appropriate size for the family. Affordable housing means that it can be rented for an amount not exceeding the amount the family pays for rent, plus utilities, plus 25%.

The family's assistance is prorated in the following manner:

1. Find the prorated housing assistance payment (HAP) by dividing the HAP by the total number of family members, and then multiplying the result by the number of eligible family members.
2. Obtain the prorated family share by subtracting the prorated HAP from the gross rent (contract rent plus utility allowance).

3. The prorated tenant rent equals the prorated family share minus the full utility allowance.

### **11.8 UTILITY ALLOWANCE**

The Housing Authority maintains 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)).

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the Housing Authority uses normal patterns of consumption for the community as a whole and current utility rates.

The Housing Authority reviews the utility allowance schedule annually and revises any allowance for a utility category if there has been a change of 10% or more in the utility rate since the last time the utility allowance schedule was revised. The Housing Authority maintains information supporting the annual review of utility allowances and any revisions made in its utility allowance schedule.

The Housing Authority uses the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the Housing Authority subsidy standards).

In accordance with 24 CFR 982.517, HACC will use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined by the PHA subsidy standards.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. To ensure compliance with this provision, PHAs may employ ad hoc reports that are available through the Inventory Management System/Public and Indian Housing Information Center, as explained in Notice PIH 2014–25 (“Over Subsidization in the Housing Choice Voucher Program”).

At each reexamination, the Housing Authority applies the utility allowance from the most current utility allowance schedule.

The Housing Authority will approve a request for a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

The utility allowance will be subtracted from the family’s share to determine the

amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belong to the tenant. Failure of a tenant to use the utility allowance to pay for utility services, as evidenced by delinquent payment and/or shut-off notices from a utility company, may subject the tenant to termination of assistance for misuse of funds, as described in section 14 of the administrative plan. The tenant will be responsible for repayment to the housing authority of any utility allowance that was not used to pay any unmet utility expenses.

### ***11.9 DISTRIBUTION OF HOUSING ASSISTANCE PAYMENT***

The Housing Authority pays the owner the lesser of the housing assistance payment or the rent to owner.

### ***11.10 CHANGE OF OWNERSHIP***

HACC requires a written request by the owner who executed the HAP contract in order to make changes regarding who is to receive the HACC rent payment or the address as to where the rent payment should be sent.

In addition, HACC requires a written request from the new owner to process a change of ownership. The following documents must accompany the written request:

- A. Deed of Trust showing the transfer of title; and
- B. Tax Identification Number or Social Security Number.

New owners will be required to execute IRS form W-9. The HACC may withhold the rent payment until the taxpayer identification number is received.

## **12.0 INSPECTION POLICIES, HOUSING QUALITY STANDARDS, AND DAMAGE CLAIMS**

HACC will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the Section 8 Existing Program unless the HQS is met. Units will be inspected at least biennially, and at other times as needed, to determine if the units meet HQS.

The Housing Authority of Cochise County has the discretion to conduct unit inspections biennially rather than annually, the Housing Choice Voucher Program.

This flexibility is applicable only to periodic unit inspections conducted during the term of the assisted tenancy. Periodic inspections are those that HACC is required to conduct at least biennially, while an HCV participant is living in a unit. Periodic inspections do not include inspections conducted prior to the initial term of the lease or to interim inspections pursuant to 24 CFR §983.103(a) and (b).

The Housing Authority of Cochise County is exercising the discretion to continue with annual inspections. Biennial inspections will be conducted for:

- Units in properties that are already inspected annually under a local housing code enforcement program.
- Any unit that receives a “pass” score under HQS for two or more years in a row.
- Factors related to an owner’s record of providing decent, safe, and sanitary housing.
- Distance may be taken into account. However, it will not be the only factor considered.

HACC may continue with annual inspections of any units not inspected annually under another program or any unit that had health and safety deficiencies during its previous HQS inspection.

Under any circumstance in which HACC is prohibited from relying on an alternative inspection method for a property, the HACC must promptly conduct an HQS inspection of all units occupied by voucher program participants, and follow HQS procedures to remedy any identified deficiencies, as required under the HQS inspection method.

*Duty to inspect.* Irrespective of the biennial/alternative inspection method provision, HACC has a duty to inspect a unit when a participant family or government official reports a condition that violates HQS. If the condition is life-threatening (i.e., the PHA would require the owner to make the repair within no more than 24 hours in accordance with § 982.404(a)(3)), then the PHA must inspect the unit within 24 hours of when the PHA receives the notification. If the condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days), then the PHA must inspect the unit within 15 days of when the PHA receives the notification. In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area or if a natural or manmade disaster makes inspection of a unit infeasible, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection can be made. In such circumstances, HACC must submit a waiver request to its local HUD field office, stating the regulation from which a waiver is requested and including an explanation of why it is needed.

HACC must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family cannot be at home for the scheduled

inspection appointment, the family must call and reschedule the inspection or make arrangements to enable the Housing Authority to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, HACC will only schedule one more inspection. If the family misses two inspections, HACC will consider the family to have violated a Family Obligation and their assistance will be terminated.

### **12.1 TYPES OF INSPECTIONS**

There are seven types of inspections HACC will perform:

- A. Initial Inspection - An inspection that must take place to ensure that the unit passes HQS before assistance can begin.
- B. Annual or Biennial Inspection - Inspections to determine that the unit continues to meet HQS which are done on an annual or biennial basis.
- C. Complaint Inspection - An inspection caused by the Authority receiving a complaint on the unit by anyone.
- D. Special Inspection - An inspection caused by a third party, i.e. HUD, needing to view the unit.
- E. Emergency - An inspection that takes place in the event of a perceived emergency. These will take precedence over all other inspections.
- F. Move Out Inspection (if applicable) - An inspection required for units in service before October 2, 1995, and optional after that date. These inspections document the condition of the unit at the time of the move-out.
- G. Quality Control Inspection - Supervisory inspections on at least 5% of the total number of units that were under lease during the Housing Authority's previous fiscal year.

### **12.2 OWNER AND FAMILY RESPONSIBILITY**

- A. Owner Responsibility for HQS
  - 1. The owner must maintain the unit in accordance with HQS.
  - 2. If the owner fails to maintain the dwelling unit in accordance with HQS, HACC will take prompt and vigorous action to enforce the owner obligations. HACC remedies for such breach of the HQS include termination, abatement of or reduction of housing assistance payments and termination of the HAP contract.

3. HACC will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the HACC and the HACC 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 HACC approved extension).
  4. The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible. Furthermore, HACC may terminate assistance to a family because of the HQS breach caused by the family.
- B. Family Responsibility for HQS
1. The family is responsible for a breach of the HQS that is caused by any of the following:
    - a. 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;
    - b. 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
    - c. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary wear and tear). "Normal wear and tear" are defined as items which could not be charged against the tenant's security deposit under state law or court practice.
  2. If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any HACC approved extension).
  3. If the family has caused a breach of the HQS, HACC will take prompt and vigorous action to enforce the family obligations. HACC may terminate assistance for the family in accordance with 24 CFR 982.552.

### ***12.3 HOUSING QUALITY STANDARDS (HQS) 24 CFR 982.401***

This Section states performance and acceptability criteria for these key aspects of the following housing quality standards:

A. Sanitary Facilities

1. Performance Requirements

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

2. Acceptability Criteria

- a. The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.
- b. The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.
- c. The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.
- d. The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

B. Food Preparation and Refuse Disposal

1. Performance Requirements

- a. The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- b. There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

2. Acceptability Criteria

- a. The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and

unsubsidized tenants in the building or premises.

- b. The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.
- c. The dwelling unit must have space for the storage, preparation, and serving of food.
- d. There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

C. Space and security

1. Performance Requirement

The dwelling unit must provide adequate space and security for the family.

2. Acceptability Criteria

- a. At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
- b. The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- c. Dwelling unit windows that are accessible from the outside, such as a basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.
- e. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

D. Thermal Environment

1. Performance Requirement

The dwelling unit must have and be capable of maintaining a

thermal environment healthy for the human body.

2. Acceptability Criteria

- a. There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
- b. The dwelling unit must not contain un-vented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

E. Illumination and Electricity

1. Performance Requirement

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources, so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire. Convenience outlet must be within 6 ft of sink in kitchens, bathrooms and laundry rooms. Exterior convenience outlets in garages, unfinished basements.

2. Acceptability Criteria

- a. There must be at least one window in the living room and in each sleeping room.
- b. The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
- c. The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

F. Structure and Materials

1. Performance Requirement

The dwelling unit must be structurally sound. The structure must not

present any threat to the health and safety of the occupants and must protect the occupants from the environment.

2. Acceptability Criteria

- a. Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
- b. The roof must be structurally sound and weather tight.
- c. The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- d. The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.
- d. Elevators must be working and safe.

G. Interior Air Quality

1. Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

2. Acceptability Criteria

- a. The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- b. There must be adequate air circulation in the dwelling unit.
- c. Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.
- d. Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

H. Water Supply

1. Performance Requirements

The water supply must be free from contamination.

2. Acceptability Criteria

The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

I. Lead-based Paint

1. Definitions

a. Chewable surface: Protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

b. Component: An element of a residential structure identified by type and location, such as a bedroom wall, an exterior windowsill, a baseboard in a living room, a kitchen floor, an interior windowsill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

c. Defective paint surface: A surface on which the paint is cracking, scaling, chipping, peeling, or loose.

d. Elevated blood level (EBL): Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

e. HEPA: A high efficiency particle accumulator as used in lead abatement vacuum cleaners.

f. Lead-based paint: A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared ( $\text{mg}/\text{cm}^2$ ), or 0.5 % by weight or 5000 parts per million (PPM).

2. Performance Requirements

a. The purpose of this paragraph of this Section is to implement Section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4822, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint

poisoning for units assisted under this part. This paragraph is issued under 24 CFR 35.24(b)(4) and supersedes, for all housing to which it applies, the requirements of subpart C of 24 CFR part 35.

- b. The requirements of this paragraph of this Section do not apply to 0-bedroom units, units that are certified by a qualified inspector to be free of lead-based paint, or units designated exclusively for the elderly. The requirements of subpart A of 24 CFR part 35 apply to all units constructed prior to 1978 covered by a HAP contract under part 982.
- c. If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six years, the initial and each periodic inspection (as required under this part), must include a visual inspection for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with paragraph k of this Section.
- d. The Housing Authority may exempt from such treatment defective paint surfaces that are found in a report by a qualified lead-based paint inspector not to be lead-based paint, as defined in paragraph 1(f) of this Section. For purposes of this Section, a qualified lead-based paint inspector is a State or local health or housing agency, a lead-based paint inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD.
- e. Treatment of defective paint surfaces required under this Section must be completed within 30 calendar days of Housing Authority notification to the owner. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces within the 30-day period, treatment as required by paragraph k of this Section may be delayed for a reasonable time.
- f. The requirements in this paragraph apply to:
  - i. All painted interior surfaces within the unit (including ceilings but excluding furniture);
  - ii. The entrance and hallway providing access to a unit in a multi-unit building; and
  - iii. Exterior surfaces up to five feet from the floor or ground that are readily accessible to children under

six years of age (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

- g. In addition to the requirements of paragraph c of this Section, for a dwelling unit constructed before 1978 that is occupied by a family with a child under the age of six years with an identified EBL condition, the initial and each periodic inspection (as required under this part) must include a test for lead-based paint on chewable surfaces. Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.
- h. Testing must be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, treatment of the paint surface in accordance with paragraph k of this Section is required, and treatment shall be completed within the time limits in paragraph c of this Section.
- i. The requirements in paragraph g of this Section apply to all protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age:
  - i. Within the unit;
  - ii. The entrance and hallway providing access to a unit in a multi-unit building; and
  - iii. Exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).
- j. In lieu of the procedures set forth in paragraph g of this Section, the housing authority may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in paragraph k of this Section.
- k. Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

- i. A defective paint surface shall be treated if the total area of defective paint on a component is:
  - (1) More than 10 square feet on an exterior wall;
  - (2) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but not limited to, ceilings, floors, doors, and interior walls;
  - (3) More than 10% of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, windowsills, baseboards and trim.
- ii. Acceptable methods of treatment are the following: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydro blasting or high-pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joint edges sealed and caulked as needed to prevent the escape of lead contaminated dust.
- iii. Prohibited methods of removal are the following: open flame burning or torching, machine sanding or grinding without a HEPA exhaust, uncontained hydro blasting or high pressure wash, and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totaling no more than twenty square feet on exterior surfaces.
- iv. During exterior treatment soil and playground equipment must be protected from contamination.
- v. All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium

phosphate or an equivalent solution.

- vi. Waste and debris must be disposed of in accordance with all applicable Federal, State, and local laws.
- l. The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.
- m. Prior to execution of the HAP contract, the owner must inform the Housing Authority and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.
- n. The Housing Authority must attempt to obtain annually from local health agencies the names and addresses of children with identified EBLs and must annually match this information with the names and addresses of participants under this part. If a match occurs, the Housing Authority must determine whether local health officials have tested the unit for lead-based paint. If the unit has lead-based paint, the Housing Authority must require the owner to treat the lead-based paint. If the owner does not complete the corrective actions required by this Section, the family must be issued a voucher to move.
- o. The Housing Authority must keep a copy of each inspection report for at least three years. If a dwelling unit requires testing, or if the dwelling unit requires treatment of chewable surfaces based on the testing, the Housing Authority must keep the test results indefinitely and, if applicable, the owner certification and treatment. The records must indicate which chewable surfaces in the dwelling units have been tested and which chewable surfaces were tested or tested and treated in accordance with the standards prescribed in this Section, such chewable surfaces do not have to be tested or treated at any subsequent time.
- p. The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

J. Access

1. Performance Requirements

The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

K. Site and Neighborhood

1. Performance Requirements

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

2. Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

L. Sanitary Condition

1. Performance Requirements

The dwelling unit and its equipment must be in sanitary condition.

2. Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation.

M. Smoke and Carbon Monoxide Detectors

1. Performance Requirements

a. Except as provided in paragraph b below of this Section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person,

smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

- b. For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993, in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

#### ***12.4 EXCEPTIONS TO THE HQS ACCEPTABILITY CRITERIA.***

HACC will utilize the acceptability criteria as outlined above with applicable State and local codes. Additionally, HACC has received HUD approval to require the following additional criteria:

- A. In each room, there will be at least one exterior window that can be opened and that contains a screen.
- B. Exterior doors must have screens for ventilation and to keep critters out.
- C. Adequate cooling is required due to extremely high Arizona temperatures and shall be, at minimum, a working swamp cooler for the unit.
- D. Adequate heat shall be considered to be 68 degrees.
- E. If space heaters are to be installed in sleeping rooms, they should be Vented; Listed; equipped with safety shutoff device and the heater must have a label and the input rating must not exceed 30 BTUs per cubic foot of room/space in which the heater is installed.
- F. In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption.
- G. A  $\frac{3}{4}$ " overflow pipe that meets code requirements must be present on the hot water heater safety valves and installed down to within 6 inches of the floor.

#### ***12.5 TIME FRAMES AND CORRECTIONS OF HQS FAIL ITEMS***

- A. Correcting Initial HQS Fail Items

HACC will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 15 business days) upon receipt of a Request for Tenancy Approval. The owner and participant will be notified in writing of the results of the inspection. If the unit fails HQS again, the owner and the participant will be advised to notify HACC to reschedule a re-inspection when the repairs have been properly completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as failed, depending on the extent of the repairs that are required to be made. No unit will be placed in the program until the unit meets the HQS requirements.

B. HQS Fail Items for Units under Contract

The owner or participant will be given time to correct the failed items cited on the inspection report for a unit already under contract. If the failed items endanger the family's health or safety (using the emergency item list below), the owner or participant will be given 24 hours to correct the violations. For less serious failures, the owner or participant will be given up to 30 days to correct the failed item(s).

If the owner fails to correct the HQS failed items after proper notification has been given, HACC will abate payment and terminate the contract in accordance with Sections 12.7 and 17.0(B)(3).

If the participant fails to correct the HQS failed items that are family-caused after proper notification has been given, HACC will terminate assistance for the family in accordance with Sections 12.2(B) and 17.0(B)(3).

C. Time Frames for Corrections

1. Emergency repair items must be abated within 24 hours.
2. Repair of refrigerators, range and oven, or a major plumbing fixture supplied by the owner must be abated within 72 hours.
3. Non-emergency items must be completed within 10 days of the initial inspection.
4. For major repairs, the owner will have up to 30 days to complete.

D. Extensions

At the sole discretion of HACC, extensions of up to 30 days may be granted to permit an owner to complete repairs if the owner has made a good faith effort to initiate repairs. If repairs are not completed within 30 days after the initial inspection date, HACC will abate the rent and cancel the HAP

contract for owner noncompliance. Appropriate extensions will be granted if a severe weather condition exists for such items as exterior painting and outside concrete work for porches, steps, and sidewalks.

### **12.6 EMERGENCY FAIL ITEMS**

The following items are to be considered examples of emergency items that need to be abated within 24 hours:

- A. No hot or cold water
- B. Utilities not in service
- C. Inability to maintain adequate heat
- D. Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling.
- E. Natural gas leak
- F. Broken lock(s) on first floor doors or windows
- G. Broken windows that unduly allow weather elements into the unit
- H. Electrical outlet smoking or sparking
- I. Exposed electrical wires which could result in shock or fire
- J. Unusable toilet when only one toilet is present in the unit
- K. Any condition that jeopardizes the security of the unit such as broken doors or windows that would allow intrusion
- L. Other conditions which pose an immediate threat to health or safety such as heating and cooling
- M. Obstacles that prevent safe entrance or exit from the unit.
- N. Inoperable Smoke Detectors

### **12.7 ABATEMENT**

When a unit fails to meet HQS and the owner has been given an opportunity to correct the deficiencies but has failed to do so within in the required time frame, the rent for the dwelling unit will be abated.

If the corrections of deficiencies are not made within the specified time frame, the

abatement will continue until the HAP contract is terminated. When the deficiencies are corrected, HACC will end the abatement the day the unit passes inspection. Rent will resume the following day and be paid the first day of the next month.

The Tenant is to be notified that their portion of the rent must still be paid to the landlord during any abatement period.

For tenant caused HQS deficiencies, the owner will not be held accountable and the rent will not be abated. The tenant is held to the same standard and time frames for correction of deficiencies as owners. If repairs are not completed by the deadline, HACC will send a notice of termination to both the tenant and the owner. The tenant will be given the opportunity to request an informal hearing.

## **13.0 RECERTIFICATION**

### ***13.1 ANNUAL REEXAMINATION***

At least annually, HACC will conduct a reexamination of family income and circumstances. The results of the reexamination determine (1) the rent the family will pay, and (2) whether the family subsidy is correct based on the family unit size.

HACC will send a notification letter to the family letting them know that it is time for their annual reexamination and scheduling an appointment with ten (10) business days advance notice. The letter includes forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells families who may need to make alternate arrangements due to a disability that they may contact staff to request an accommodation of their needs.

During the interview, the family will provide all information regarding income, assets, expenses, and other information necessary to determine the family's share of rent. The family will sign the HUD consent form and other consent forms that later will be mailed to the sources that will verify the family circumstances.

Upon receipt of verification, HACC will determine the family's annual income and will calculate their family share.

### ***13.2 EFFECTIVE DATE OF RENT CHANGES FOR ANNUAL REEXAMINATION***

The new family share will generally be effective upon the anniversary date with 30 days' notice of any rent increase to the family.

If the rent the family receives a 30-day notice of the amount. If the new rent is a reduction and the delay is beyond the control of the family, the reduction will be delayed due to a reason beyond the control of the family, then any rent increase will be effective the first of the month after the month in which effective as scheduled on the anniversary date.

If the family caused the delay, then any increase will be effective on the anniversary date. Any reduction will be effective the first of the month after the rent amount is determined.

### **13.3 MISSED APPOINTMENTS**

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing for the same considerations for rescheduling and accommodation as above. The letter will also advise that failure by the family to attend the second scheduled interview will result in HACC taking action to terminate the family's assistance.

### **13.4 INTERIM REEXAMINATIONS**

#### CHANGES TO REPORT

The TTP and Tenant Rent will remain in effect for the period between regularly scheduled reexaminations except in the circumstances below:

- A. A person with income joins the family.
- B. The tenant has misrepresented the facts upon which rent is based.
- C. The income increases in families with zero income or unrealistically low income. Reexamination is scheduled every 60 days until income does to a realistic level.
- D. Families whose annual income cannot be projected with any reasonable degree of accuracy. Reexaminations shall be not more than 90 days apart or less than every 30 days.
- E. For families where an error was made at admission or reexamination. The family will not be charged retroactively for an error made by HACC staff.
- F. Receipt of a deferred payment in a lump sum which represents the delayed start of a periodic payment, such as unemployment, or a deferral due to a dispute, such as back child support payments. Lump sum payments up to \$1,000 will not have to be reported at the Interim Adjustment. If the lump sum payment is \$1,000 or over, a deduction

will be made for HUD Allowable Legal Expenses incurred in seeking the award. Deferred payments of Social Security or SSI benefits are excluded from annual income.

- G. Change in the contract rent after the first year of the lease.
- H. Disabled families are eligible for a 12-month 100 percent earned income disregard and an additional 50 percent earned income disregard if the family member with disabilities meets the criteria of 24CFR 5.617.
- I. Family members who are eligible for the benefit of earned income disregard (EID) is limited to 24 straight months. The final rule provides:
  - Once a family member is determined to be eligible for the EID, the 24-calendar month period starts;
  - If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;
  - During the 24-calendar month, EID benefits are recalculated based on changes to family member income and employment.
  - During the first 12-calendar month period, HACC must exclude all increased income from the qualifying employment of the family member. After the first 12-calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);
  - The EID benefit is limited to a lifetime 24-month period for the qualifying family member.
  - At the end of the 24 months, the EID ends regardless of how many months were "used."

**FAMILIES ARE REQUIRED TO REPORT PERTINANT INFORMATION AS SOON AS POSSIBLE.**

The tenant must request HACC's approval to add family members, except births, adoptions or court awarded custody. HACC will determine eligibility of new family members prior to adding the family member.

The family may report any of the following changes which could result in a decrease in the tenant's rent:

- A. Decrease in income;
- B. Increase in allowances or deductions.

Decreases in the tenant portion of the rent will be effective the first day of the month

following the month in which the change occurs if reported in a timely manner.

Any other changes reported by tenants other than those listed above will not be processed between regularly scheduled annual recertifications.

### **VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

If the family is divided into two otherwise eligible families due to divorce, legal separation or other division of the family, HACC must determine which family should continue receiving the assistance.

The Voucher may be retained by either household if there is mutual consent. A court stipulated determination may also resolve which household retains the Voucher. Otherwise, HACC will be required to make the decision as to which family will retain the Voucher.

The following factors shall be considered in making the decision (no priority specified):

Which family has custody of dependent children;

To whom the Voucher was initially issued, if not jointly;

The composition of the new family units, and which family contains elderly or disabled members;

Which family remains in the unit;

Whether domestic violence is involved in the breakup; and

Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, HACC will terminate assistance on the basis of failure to provide information necessary for a recertification.

If the family breakup results in eligibility for a smaller sized Voucher, the family may be required to move to a smaller unit.

In cases where the family split is the result of having children and grandchildren in the home, the Voucher holder may request another Voucher for the mother and child(ren) in order for them to start living independently. The family leaving must have been a permanent part of the family of the original Voucher holder, and **not have joined the family within the past two years**. Since the departing family is already considered a participant of the Section 8 Program, there is no requirement to go on the waiting list.

HACC will issue a determination within 10 business days of the request for a determination. The family member requesting the determination may request an informal hearing in compliance with the informal hearings in Section 16.3.

### **13.5 EFFECTIVE DATE OF ALL OTHER RENT CHANGES**

Unless there is a delay in reexamination processing caused by the family, any rent increase will be effective the first of the second month after the month in which the family receives notice of the new rent amount. If the family causes a delay, then the rent increase will be effective on the date it would have been effective had the process not been delayed (even if this means a retroactive increase).

If the new rent is a reduction and any delay is beyond the control of the family, the reduction will be effective the first of the month after the interim reexamination should have been completed.

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the rent amount is determined.

The Housing Authority of Cochise County must obtain third-party verification of all family assets upon admitting a family to the HCV and then again at least every 3 years thereafter. During the intervening annual reexaminations, HACC has the discretion under this provision to accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

HACC may obtain a family's declaration of assets under \$5,000 at the family's next interim or annual reexamination following adoption of the provision in the Admin. Plan.

All family members 18 years of age and older sign the family's declaration of total assets. A family that knowingly submits false information is subject to a civil penalty, plus damages, under the False Claims Act (31 U.S.C. 3729).

Whenever a family member is added, HACC must obtain third-party verification of that family member's assets. At the next annual reexamination of income following the addition of that family member, HACC must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold. If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then it is not required to obtain third-party verification of all family assets at the next

annual reexamination of income following the addition of the family member; however, third-party verification of all family assets is required at least every 3 years.

#### **14.0 TERMINATION OF ASSISTANCE TO THE FAMILY BY THE HOUSING AUTHORITY OF COCHISE COUNTY**

HACC may at any time terminate program assistance for a participant, because of any of the actions or inaction by the household:

- A. The family violates any family obligations under the program.
- B. A family member fails to sign and submit consent forms.
- C. The participant fails to establish citizenship or eligible immigrant status and is not eligible for or does not elect continuation of assistance, pro-ration of assistance, or temporary deferral of assistance. If HACC determines that a family member has knowingly permitted an ineligible noncitizen (other than any ineligible noncitizens listed on the lease) to permanently reside in their Section 8 unit, the family's assistance will be terminated. Such family will not be eligible to be readmitted to Section 8 for a period of 24 months from the date of termination.
- D. Any member of the family has ever been evicted from federally assisted housing in the last five years or evicted from housing assisted under the program for a serious violation of the lease.
- E. The Housing Authority has ever terminated assistance under the Certificate or Voucher Program for any member of the family.
- F. Any member of the family commits drug-related criminal activity, or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents or persons residing in the immediate vicinity of the premises. Under 24 CFR 5.2005(c)(2), criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or affiliated individual of the tenant is the victim.
- G. Any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
- H. The family currently owes rent or other amounts to the Housing Authority or to another Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act.
- I. The family has not reimbursed any Housing Authority for amounts paid to

an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

- J. The family breaches an agreement with the Housing Authority to pay amounts owed to a Housing Authority, or amounts paid to an owner by a Housing Authority. (The Housing Authority, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a Housing Authority or amounts paid to an owner by a Housing Authority. The Housing Authority may prescribe the terms of the agreement.)
- K. A family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation.
- L. The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel.
- M. Any household member is subject to a lifetime registration requirement under a State sex offender registration program.
- N. A household member's illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the HACC to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- O. A family fails to use a provided utility allowance to pay its utility expenses, as evidenced by delinquent payment notices, shut-off notices, or the suspension of utility service for non-payment. The family will also be responsible for repayment of utility allowance up to the extent of any unpaid utility expenses intended to be met by that allowance.
- P. If there is insufficient program funding. The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The PHA will determine whether there is sufficient funding to pay for currently assisted families in accordance with 24 CFR 982.454. If it determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, termination of HAP contracts as a last resort.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

The PHA will terminate contracts starting with Category 1 families. The PHA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

Category 1: Families who have committed program fraud or abuse within the past 6 months.

Within each group below, the PHA will terminate HAP contracts according to the date the PHA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the PHA will rank the notices for that date using a random method.

First, the PHA will terminate families who owe the PHA money but are not yet under repayment agreement.

Second, the PHA will terminate families who owe the PHA money but are under repayment agreement but have made at least one late payment.

Third, the PHA will terminate families who owe the PHA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

Category 2: Families who committed program fraud or abuse 6-12 months ago.

Terminations based on issues unrelated to family behavior:

First in, first out. Under this option, the PHA would terminate families according to the date of the family's admission to the program, starting with those who have been receiving assistance the longest amount of time, or the first ones to enter the program, except for elderly or disabled families. The PHA would select families for termination in the following order:

- i. Non-elderly, non-disabled, single member families.
- ii. Non-elderly, non-disabled families, with no children under the age of 18.
- iii. Non-elderly, non-disabled families with children under the age of 18.
- iv. Elderly and disabled families.

**Notice of Termination of Assistance**

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states:

- The reason(s) for the proposed termination
- The effective date of the proposed termination
- The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- The date by which a request for an informal hearing must be received by the PHA.

If the PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant with a copy of the criminal record.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Under VAWA, persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by HACC:

1. An incident or incidents or actual or threatened domestic violence, dating violence, or stalking will **not** be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall **not** be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.
2. HACC may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or other without terminating the assistance or evicting victimized lawful occupants.
3. HACC may honor court orders regarding the rights of access or control of the property, including EPO's, DVO's, and other orders issued to protect the victim and disused to address the distribution or possession or property among household members where the family "breaks up".
4. There is no limitation on the ability of HACC to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims.
5. There is no prohibition on HACC terminating assistance if it "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's (victim's) assistance is not terminated."
6. Any protections provided by law which give greater protection to the

victims are not superseded by these provisions.

7. HACC may require certification by the victim of victim status on such Forms as HACC and/or HUD shall prescribe or approve.

## **15.0 COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, INFORMAL HEARINGS FOR PARTICIPANTS**

### **15.1 COMPLAINTS**

HACC will investigate and respond to complaints by participant families, owners, and the general public. HACC may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

### **15.2 INFORMAL REVIEW FOR THE APPLICANT**

#### **A. Informal Review for the Applicant**

HACC will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the HACC decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

#### **B. When an Informal Review is not Required**

HACC will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the Cochise County HA subsidy standards.
2. A HACC determination not to approve an extension or suspension of a voucher term.
3. A HACC determination not to grant approval to lease a unit under the program or to approve a proposed lease.
4. A HACC determination that a unit selected by the applicant is not in compliance with HQS.
5. A HACC determination that the unit is not in accordance with HQS

because of family size or composition.

6. General policy issues or class grievances.
7. Discretionary administrative determinations by the HACC.

C. Informal Review Process

HACC will give an applicant an opportunity for an informal review of HACC decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by HACC other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to a HACC decision.
3. HACC will notify the applicant of their decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members (inclusive of head of household and/or spouse) who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons HACC will consider documented evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
  2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
  3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.
- E. Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that HACC provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

### **15.3 INFORMAL HEARINGS FOR PARTICIPANTS**

- A. When a Hearing is Required
1. HACC will give a participant family an opportunity for an informal hearing to consider whether the following HACC decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and HACC policies:
    - a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
    - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HACC utility allowance schedule.
    - c. A determination of the family unit size under HACC subsidy standards.
    - d. A determination that a family is residing in a unit with a

larger number of bedrooms than appropriate for the family unit size under the HACC subsidy standards, or HACC determination to deny the family's request for an exception from the standards.

- e. A determination to terminate assistance for a participant family because of the family's action or failure to act.
  - f. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the HACC policy and HUD rules. (See Section 2.3 Obligations of Participant)
2. In cases described in paragraphs 15.3(A)(1)(d), (e), and (f), of this Section, HACC will give the opportunity for an informal hearing before HACC terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is not Required

HACC will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

- 1. Discretionary administrative determinations by HACC.
- 2. General policy issues or class grievances.
- 3. Establishment of HACC schedule of utility allowances for families in the program.
- 4. A HACC determination not to approve an extension or suspension of a voucher term.
- 5. A HACC determination not to approve a unit or lease.
- 6. A HACC determination that an assisted unit is not in compliance with HQS. (However, HACC will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
- 7. A HACC determination that the unit is not in accordance with HQS because of the family size.
- 8. A determination by HACC to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 15.3(A)(1)(a), (b), and (c), of this Section, HACC will notify the family that the family may ask for an explanation of the basis of a HACC determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs 16.3(A)(1)(d), (e), and (f), of this Section, HACC will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:
  - a. Contain a brief statement of the reasons for the decision; and
  - b. State that if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.
  - c. Promptness required. An extension will not be granted if more than 15 minutes late.

D. Hearing Procedures

HACC and participants will adhere to the following procedures:

1. Discovery
  - a. The family will be given the opportunity to examine 48 hours before the hearing any HACC documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If HACC does not make the document(s) available for examination on request of the family 48 hours prior to the hearing, HACC may not rely on the document at the hearing.
  - b. HACC will be given the opportunity to examine, at the HACC offices 48 hours before the hearing, any family documents that are directly relevant to the hearing. HACC will be allowed to copy any such document at HACC expense. If the family does not make the document(s) available for examination on request of HACC, the family may not rely on the document at the hearing.

Note: The term **document** includes records and regulations.

2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by HACC, other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with HACC hearing procedures.

4. Evidence

HACC and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 10 business days from the date of the hearing, 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.

6. Effect of the Decision

HACC is not bound by a hearing decision:

- a. Concerning a matter for which HACC 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 HACC hearing procedures.
- b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c. If HACC determines that it is not bound by a hearing decision, HACC will notify the family within 10 business days of the determination, and of the reasons for the determination.

E. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects

of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the HACC will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

F. Informal Hearing Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The participant family may request that HACC provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision.

## 16.0 TERMINATION OF THE LEASE AND CONTRACT

The term of the lease and the term of the HAP contract are the same. They begin on the same date and they end on the same date. The lease may be terminated by the owner, by the tenant, or by the mutual agreement of both at the end of term. The owner may only terminate the contract by terminating the lease. The HAP contract may be terminated by HACC. Under some circumstances the contract automatically terminates.

### A. Termination of the lease

#### 1. By the family

The family may terminate the lease without cause upon proper notice to the owner and to HACC after the first year of the lease. The length of the notice that is required is stated in the lease (generally 30 days).

#### 2. By the owner.

a. The owner may terminate the lease during its term on the following grounds:

- i. Serious or repeated violations of the terms or conditions of the lease;
- ii. Violation of Federal, State, or local law that impose obligations on the tenant in connection with the occupancy or use of the unit and its premises;
- iii. Criminal activity by the household, a guest, or another person under the control of the household that threatens the health, safety, or right to peaceful enjoyment of the premises by other persons residing in the immediate vicinity of the premises;
- iv. Any drug-related criminal activity on or near the premises;
- v. Other good cause. Other good cause may include, but is not limited to:
  - (1) Failure by the family to accept the offer of a new lease;
  - (2) Family history of disturbances of neighbors or destruction of property, or living or housekeeping habits resulting in damage to the property or unit;

- (3) The owner’s desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit;
      - (4) A business or economic reason such as sale of the property, renovation of the unit, desire to rent at a higher rental amount.
    - b. During the first year the owner may not terminate tenancy for other good cause unless the reason is because of something the household did or failed to do.
    - c. The owner may only evict the tenant by instituting court action. The owner must give HACC a copy of any owner eviction notice to the tenant at the same time that the owner gives the notice to the tenant.
    - d. The owner may terminate the contract at the end of the initial lease term or any extension of the lease term without cause by providing notice to the family that the lease term will not be renewed.
- B. Termination of the Contract
  - 1. Automatic termination of the Contract
    - a. If HACC terminates assistance to the family, the contract terminates automatically.
    - b. If the family moves out of the unit, the contract terminates automatically.
    - c. The contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.
  - 2. Termination of the contract by the owner

The owner may only terminate tenancy in accordance with lease and State and local law.
  - 3. Termination of the HAP contract by HACC

The Housing Authority may terminate the HAP contract because:

    - a. The Housing Authority has terminated assistance to the family.

- b. The unit does not meet HQS space standards because of an increase in family size or change in family composition.
  - c. The unit is larger than appropriate for the family size or composition under the Program.
  - d. When the family breaks up and HACC determines that the family members who move from the unit will continue to receive the assistance.
  - e. HACC determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program.
  - f. The owner has breached the contract in any of the following ways:
    - i. If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.
    - ii. If the owner has violated any obligation under any other housing assistance payments contract under Section 8 of the 1937.
    - iii. If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.
    - iv. For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement;
    - v. If the owner has engaged in drug trafficking.
4. Final HAP payment to owner

The HAP payment stops when the lease terminates. The owner may keep the payment for the month in which the family moves out. If the owner has begun eviction proceedings and the family continues to occupy the unit, the Housing Authority will continue to make payments until the owner obtains a judgment or the family moves out.

## **17.0 QUALITY CONTROL OF SECTION 8 PROGRAM**

In order to maintain the appropriate quality standards for the Section 8 Program, HACC will annually review files and records to determine if the work documented in the files or records conforms to program requirements. This shall be accomplished by a supervisor or another qualified person other than the one originally responsible for the work or someone subordinate to that person. The number of files and/or records checked shall be at least equal to the number specified in the Section 8 Management Assessment Program for a program the size of this housing authority.

## **18.0 PROCEDURES FOR DAILY PRACTICE ARE IN ACCORDANCE WITH INDUSTRY STANDARDS AND ARE MAINTAINED SEPARATELY.**

## **19.0 REVISION OF ADMINISTRATIVE PLAN**

(Revision of Administrative Plan Resulting from Changes in Local, State, or Federal Law or Regulation)

The provisions of this plan are based upon local, state and Federal law and regulation. Should any applicable law or regulation change, this plan will be deemed to be automatically revised. To the extent that the change is mandatory (i.e., allowing no Housing Authority discretion), the text of the Plan shall be revised without requirement for administrative processing.

## **20.0 CODE OF CONDUCT**

### **PURPOSE**

This Code of Conduct establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity and specifically in this situation with the integrity of the employees and Commissioners of the Housing Authority of Cochise County. This Section sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code of Conduct is not intended, nor should it be construed, as an attempt to unreasonably intrude upon the individual employee or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

## **PROCUREMENT STANDARDS**

Grantees and sub grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or sub grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- i. The employee, officer or agent,
- ii. Any member of his immediate family,
- iii. His or her partner, or
- iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's or sub grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements. Grantee and sub grantees may set minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and sub grantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

## **CONFLICT OF INTEREST**

In accordance with 24 CFR 982.161, neither the Housing Authority of Cochise County 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 his or her tenure with the Housing Authority of Cochise County or for one year thereafter:

- A. Any present or former member or officer of the Housing Authority (except a participant commissioner);
- B. Any employee of the Housing Authority or any contractor, subcontractor or

agent of the Housing Authority who formulates policy or who influences decisions with respect to the programs;

- C. Any public official, member of a governing body, or State or local legislator who exercises functions or responsibilities with respect to the Housing Authority of Cochise County 's programs; or
- D. Any member of the Congress of the United States.

Any member of the classes described in A, B, C, or D, must disclose their interest or prospective interest to the Housing Authority and HUD.

The Conflict-of-Interest prohibition under this section (24.2) may be waived by the HUD Field Office upon the request of the Housing Authority of Cochise County for good cause.

1. No employee, officer or agent of this Authority shall participate in selection, or in the award or administration of a contract supported by U. S. Federal funds if a conflict of interest would be involved.

Such a conflict would arise when the employee, officer, or agent, any member of his/her immediate family, his/her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

2. An employee, officer or agent of this corporation shall be careful to ensure that s/he is involved in no apparent or potential violations of this provision.

### **GIFTS**

1. This Authority's officers, employees or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements.

Depending upon the circumstances, exceptions to this provision may be granted only in situations where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value.

2. An employee, officer or agent of this Authority shall be careful to ensure that s/he is involved in no apparent or potential violations of this provision.

### **ADMINISTRATION**

1. Any employee, officer or agent of this corporation should report violations of this Code of Conduct to his/her supervisor, or to the Executive Director.

2. There will be no retaliation against any party who makes a good faith complaint concerning violations of this Code of Conduct; regardless of whether it is ultimately determined that such violation has in fact occurred. Nor will there be any retaliation against any party who provides information in the course of an investigation into alleged violations of this Code of Conduct.

3. All corporation supervisors have a responsibility to be sensitive to and deal with violations of this Code of Conduct. This responsibility includes monitoring all relevant work activities and contacting a higher

level supervisor or the Executive Director, if it is reasonably believed that a violation of the Code of Conduct has occurred. Any such report shall be investigated regardless of whether a formal complaint has been made.

## **PROHIBITION OF SOLICITATION OR ACCEPTANCE OF GIFTS**

No Commissioner or Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive a gift having value in excess of \$25.00 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority.

## **HOUSING AUTHORITY ADMINISTRATIVE AND DISCIPLINARY REMEDIES FOR VIOLATION OF THE HOUSING AUTHORITY CODE OF CONDUCT**

Violations of this Code of Conduct Policy will result in disciplinary action as outlined in the Housing Authority of Cochise County's Personnel Policy. Any employee, officer, or agent of this Authority determined to have committed a violation of this Code of Conduct shall be subject to disciplinary action, ranging from oral and written warnings, up to and including suspension and / or discharge.

### **DISSEMINATION**

Any employee, officer or agent of this corporation shall be informed of this Code of Conduct when this code is adopted, and/or when s/he is initially retained by the Corporation, and on an annual basis thereafter.

## **21.0 ADMINISTRATIVE FEE RESERVE**

(a) The PHA must maintain an administrative fee reserve (formerly "operating reserve") for the program. There is a single administrative fee reserve for the PHA program. The PHA must credit to the administrative fee reserve the total of:

(1) The amount by which program administrative fees paid by HUD for a PHA fiscal year exceed the PHA program administrative expenses for the fiscal year; plus

(2) Interest earned on the administrative fee reserve.

(b)

(1) The PHA must use funds in the administrative fee reserve to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses (to the end of the last expiring funding increment under the consolidated ACC), the PHA may use these funds for

other housing purposes permitted by State and local law. However, HUD may prohibit use of the funds for certain purposes.

**(2)** The PHA Cochise County Board of Supervisors or other authorized officials must establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

**(3)** If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses.

## **22.0 STEPS TO BE TAKEN TO REDUCE VOUCHER PROGRAM COSTS**

In accordance with HUD Notice PIH 2005-9 (HA), the housing authority always reserves the ability to take action as described in this section to reduce program costs within the amount budgeted for the calendar year, and/or to maximize the number of vouchers it can fund within its budget and baseline number of units. Under such circumstances, these actions take precedence over other applicable policies and procedures described in this plan.

Based on the 2005 Appropriations Act Conference Report language, as well as existing authority under the voucher program regulations at 24 CFR Part 982, possible housing authority cost-saving actions are described below, by topic. Some of these actions are necessary just to ensure compliance with program requirements (e.g., ensuring that owner rents are reasonable) and should be taken by the housing authority, irrespective of whether the housing authority is experiencing financial difficulties.

### **Payment Standards**

The housing authority may opt to lower payment standards. In the tenant-based rental voucher program, a lower payment standard applies immediately to all new admissions, all movers, and stayers with a new HAP contract (e.g., when the owner offers or requires a new lease). For all other tenant-based rental voucher participants, decreased payment standard amounts are not applied until the second regular reexamination after the payment standard is lowered. The delayed applicability of a lower payment standard is a regulatory, not statutory, requirement. The housing authority retains the right to submit a request to HUD to waive this requirement, for good cause.

The housing authority requests to approve payment standards below 90 percent of the Fair Market Rent may be approved by the HUD field office. However, §982.503(d) states that HUD will not approve such payment standard amounts if the family share for more than 40 percent of voucher participants exceeds 30 percent of monthly adjusted income. This is a regulatory, not statutory, requirement. If the housing authority is experiencing financial difficulties, it retains

the ability to submit a request to HUD to waive this requirement for good cause.

The housing authority regulatory waiver requests concerning payment standards must provide justification for the waiver. For example, the housing authority may have insufficient funding to continue to assist current participants within the funding amounts at current payment standards. In such a situation, the housing authority may be required to more quickly impose lower payment standards in order to maintain an appropriate level of service. The waiver requests should, at a minimum, include the calculation the housing authority used to arrive at the projected shortfall in funding, after factoring in anticipated turnover of vouchers, as well as any cost savings measures the housing authority has already taken or will take in the future. In addition, the housing authority must include the actions it has taken to protect “at risk” families, the current rent burden to families prior to the implementation of the lower payment standard, and an affirmative statement that the implementation of the waiver will allow the housing authority to manage its programs within its budgetary allocation.

### **Utility Allowances**

The PHA may review utility allowances to determine if they are too high. Changes in utility allowances may be implemented immediately, but not later than the next regularly scheduled reexamination of family income.

Section 982.517(c) of the voucher regulations requires the housing authority to revise utility allowances whenever there is a utility rate increase of ten percent or more. This is a regulatory, not statutory, requirement. If experiencing financial difficulties, the housing authority retains the ability to submit a request to HUD to waive this requirement, for good cause.

### **Portability and Moves**

The housing authority may opt to deny portability moves, and moves within its jurisdiction, if the housing authority does not have sufficient funds under its calendar year budget to subsidize families that move to a higher cost area or unit. “Higher cost area” is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or “more generous” subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). This is a denial to move for insufficient funding under §982.314(e)(1). In such cases, the housing authority must determine that based on its current funding level, it has insufficient funds to pay for higher subsidy amounts for families wishing to move to more expensive areas or units. Note also that in the case of portability moves, the housing authority will contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA is willing to absorb, there are no grounds to deny the portability move under §982.314(e)(1). No regulatory waiver is necessary to impose such portability and moving restrictions.

### **Ensuring Reasonable Rents**

The housing authority does not have to wait until the Housing Assistance Payments (HAP) contract anniversary date to review owner rents and reduce them if

warranted. It must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units in accordance with the regulations at §982.507(b) and the HAP contract. The housing authority should ensure that owner rents do not exceed the amount being charged by the owner for unassisted units in the same building or complex. The initial rent and all rent increases must comply with any State or local rent control limits. Further, any owner leasing promotions for unassisted tenants (e.g., the initial 2 months of occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

The housing authority will provide written notice, in accordance with the HAP contract, to the owner before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the housing authority, the owner must reduce the rent to the reasonable amount, or the HAP contract must be terminated. In such cases, the family will be issued a voucher to find a new unit, and any lower payment standard or correction to the family unit size would be applicable immediately.

Even if an owner's rent is reasonable, the housing authority can request the owner to voluntarily agree to a temporary rent reduction or defer a rent increase to avoid termination of family assistance and HAP contract termination. It is the owner's option to agree to such measures.

#### **Termination of Assistance Due to Insufficient Funding**

The housing authority may terminate HAP contracts, in accordance with HUD requirements, if it determines that "funding under the consolidated ACC is insufficient to support continued assistance for families in the program" (§982.454). Such action will be conducted according to termination policies within its administrative plan. These policies will describe how the housing authority will determine which HAP contracts will be terminated. Any policies concerning the resumption of assistance for impacted families will also be included in the administrative plan.

Before terminating HAP contracts on the basis of insufficient funding, the housing authority will ensure that the determination of such fact is documented.

#### **Voucher Issuance**

The housing authority always retains the ability to stop issuing vouchers or pull back, or void, outstanding vouchers for applicants searching for housing (that have not yet resulted in an executed HAP contract). All applicants who have their vouchers voided will be returned to the waiting list at the same position they occupied when the voucher was issued.

#### **Subsidy Standards**

The housing authority retains the ability to revise subsidy standards to reduce bedroom size eligibility. A subsidy standard of two persons per bedroom, regardless of sex or age, is acceptable. An efficiency subsidy standard (0-bedroom unit) for single person households is acceptable. If a family leases a unit larger than the unit

size on the voucher, the housing authority will ensure that the payment standard is based on the lower of the voucher unit size or the actual unit size leased. If the family size is reduced after admission, it will ensure that the correct the payment standard is used. An “empty nester” single individual living in a 3-bedroom unit should have a 0- or 1-bedroom payment standard, not a 3-bedroom payment standard. If the unit size for which the family is eligible changes during the term of the HAP contract, the “new” unit size is applicable at the first regular reexamination following the change (§982.505(b)(5)).

#### **Family Income Matching/Verification and Other Anti-Fraud Efforts**

The housing authority may accelerate efforts concerning income matching and income verification. It may notify families that enforcement action can be taken where underreporting of income is discovered.

#### **Interim Reexaminations**

The housing authority requires families to report all changes in household income and makeup between reexaminations, within 10 days of the effective date of the change, and it may conduct more frequent interim reviews at its discretion. For families reporting no income, income reviews which will be done at least every three months.

## **23.0 VIOLENCE AGAINST WOMEN ACT(VAWA) POLICY**

### **I. Purpose and Applicability**

The purpose of this policy (herein called “Policy”) is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L.109-162) and more generally to set forth by the Housing Authority of Cochise County policies and procedures regarding domestic violence, dating violence, sexual assault, and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by the Housing Authority of Cochise County of all federally subsidized public housing and Section 8 rental assistance under the United States Housing Act of 1937 (42 U.S.C.§1437 *et seq.*). Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, sexual assault, or stalking as well as female victims of such violence.

- VAWA 2013 expands housing protections to victims of sexual assault. The current regulatory language at 24 CFR part 5, subpart L describes protections for “victims of domestic violence, dating violence, sexual assault, and stalking,” but

effective March 7, 2013 (the date VAWA 2013 was signed into law) these protections were expanded to include victims of sexual assault.

- VAWA 2013 expands protections relating to the prohibition of terminating assistance because of criminal activity directly related to domestic violence, dating violence, sexual assault, and stalking (currently at 24 CFR 5.2005(c)(2)) by replacing term “immediate family member” with “affiliated individual.” VAWA 2013 provides that criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the tenant’s household or any guest or other person under the tenant’s control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or affiliated individual of the tenant is the victim or threatened victim of domestic violence, dating violence, sexual assault, and stalking. VAWA 2013 defines “affiliated individual,” with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

## **II. Goals and Objectives**

This Policy has the following principal goals and objectives:

- A. Maintaining compliance with all applicable legal requirements imposed by VAWA;
- B. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault, and stalking who are assisted by the Housing Authority of Cochise County;
- C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, sexual assault, and stalking;
- D. Creating and maintaining collaborative arrangements between the Housing Authority of Cochise County, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence, sexual assault, and stalking, who are assisted by the Housing Authority of Cochise County; and
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, and stalking, affecting individuals assisted by the Housing Authority of Cochise County.

## **III. Other Housing Authority of Cochise County Policies and Procedures**

This Policy shall be referenced in and attached to the Housing Authority of Cochise County’s Five-Year Public Housing Agency Plan and shall be incorporated in and made a part of the Housing Authority of Cochise County’s Admissions and Continued Occupancy Policy and the Housing Authority of Cochise County’s Section 8 Administrative Plan. The Housing Authority of Cochise County’s annual public housing agency plan shall also contain

information concerning the Housing Authority of Cochise County's activities, services or programs relating to domestic violence, dating violence, sexual assault, and stalking.

To the extent any provision of this policy shall vary or contradict any previously adopted policy or procedure of the Housing Authority of Cochise County, the provisions of this Policy shall prevail.

#### **IV. Definitions**

As used in this Policy:

*A. Domestic Violence* – The term ‘domestic violence’ includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.”

*B. Dating Violence* – means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

*C. Stalking* – means –

(A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and

(B) in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person;

*D. Immediate Family Member* - means, with respect to a person –

(A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(B) any other person living in the household of that person and related to

that person by blood or marriage.

E. *Perpetrator* – means person who commits an act of domestic violence, dating violence or stalking against a victim.

F. *Affiliated Individual*-means with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

## V. Admissions and Screening

A. *Non-Denial of Assistance*. The Housing Authority of Cochise County will not deny admission to public housing or to the Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault, and stalking, provided that such person is otherwise qualified for such admission.

B. *Mitigation of Disqualifying Information*. When so requested in writing by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, the Housing Authority of Cochise County, may but shall not be obligated to take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, the Housing Authority of Cochise County shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information. The Housing Authority of Cochise County will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

## VI. Termination of Tenancy or Assistance

A. *VAWA Protections*. Under VAWA, public housing residents and persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by the Housing Authority of Cochise County:

1. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
2. In addition to the foregoing, tenancy or assistance will not be terminated by the Housing Authority of Cochise County as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted

household, a guest or another person under the tenant's control, and the tenant or an affiliated individual is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:

- (a) Nothing contained in this paragraph shall limit any otherwise available authority of the Housing Authority of Cochise County or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither the Housing Authority of Cochise County nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence dating violence or stalking than that applied to other tenants.
- (b) Nothing contained in this paragraph shall be construed to limit the authority of the Housing Authority of Cochise County or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or the Housing Authority of Cochise County, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from assistance.

*B. Removal of Perpetrator.* Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, the Housing Authority of Cochise County or a Section 8 owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in acts of physical violence against family members or others. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be affected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by the Housing Authority of Cochise County. Leases used for all public housing operated by the Housing Authority of Cochise County and, at the option of Section 8 owners or managers, leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by the Housing Authority of Cochise County, shall contain provisions setting forth the substance of this paragraph.

- VAWA 2013 expands the protections regarding lease bifurcations (currently at 24 CFR 5.2009(a)) by:
  - Changing the language regarding the violent acts (“criminal acts of physical violence against family members or others” becomes “criminal activity directly relating to domestic violence, dating violence, sexual assault, and stalking against an affiliated individual or other individual”), and
  - Mandating that if such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the PHA shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish eligibility, HACC is required to provide the tenant a reasonable program. HUD will provide through rule making or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or establish eligibility under another HUD covered housing program. HACC will not be able to implement this provision until HUD provides such rulemaking or guidance. HUD specifically solicits comment on that period that would be reasonable to find new housing or establish eligibility under another HUD covered housing program.

## **VII. Verification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

*A. Requirement for Verification.* The law allows, but does not require, the Housing Authority of Cochise County or a Section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, and stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph VII. C., the Housing Authority of Cochise County shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority of Cochise County. Section 8 owners or managers receiving rental assistance administered by the Housing Authority of Cochise County may elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking may be accomplished in one of the following three ways:

1. *HUD-approved form* - by providing to the Housing Authority of Cochise County or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The

incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator.

2. *Other documentation* - by providing to the Housing Authority of Cochise County or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault, and stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy.

The victim of the incident or incidents of domestic violence, dating violence, sexual assault, and stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

3. *Police or court record* – by providing to the Housing Authority of Cochise County or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

- VAWA 2013 expands the forms of documentation that a victim may provide. Specifically, VAWA 2013 provides that the forms of documentation a victim may provide (currently at 24 CFR 5.2007(b) (2) -(3) and listed on the form HUD-50066) also include a record of an administrative agency, and documentation from a mental health professional. Additionally, VAWA 2013 provides that the victim is required to provide the name of the perpetrator on the HUD-50066 only if the name of the perpetrator is safe to provide and is known to the victim.

B. *Time allowed to provide verification/ failure to provide.* An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, and stalking, and who is requested by the Housing Authority of Cochise County, or a Section 8 owner or manager to provide verification, must provide such verification within 14 business days (*i.e.*, 14 calendar days, excluding Saturdays, Sundays, and federally-recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

C. *Waiver of verification requirement.* The Executive Director of the Housing Authority of Cochise County, or a Section 8 owner or manager, may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this

policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director, owner or manager. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

### **VIII. Confidentiality**

*A. Right of confidentiality.* All information (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault and stalking) provided to the Housing Authority of Cochise County or to a Section 8 owner or manager in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is granted, shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is:

1. requested or consented to by the individual in writing, or
2. required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
3. otherwise required by applicable law.

*B. Notification of rights.* All tenants of public housing and tenants participating in the Section 8 rental assistance program administered by the Housing Authority of Cochise County shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

*C. Security.* All information pertaining to the fact that an individual is a victim of domestic violence, dating violence, sexual assault, and stalking shall be maintained separately and securely by the Resident Services Department unless such information is subject to the disclosure exceptions noted in this section.

### **IX. Transfer to New Residence**

*A. Application for transfer.* In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, sexual assault, and stalking, the Housing Authority of Cochise County will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing or Section 8 tenant to a different unit in order to reduce the level of risk to the individual. A tenant who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the tenant or another member of the household who is or was the victim of domestic violence dating violence or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual

remains in the present dwelling unit.

*B. Action on applications.* The Housing Authority of Cochise County will act upon such an application promptly.

*C. No right to transfer.* The Housing Authority of Cochise County will make every effort to accommodate requests for transfer when suitable alternative vacant units are available, and the circumstances warrant such action. However, except with respect to portability of Section 8 assistance as provided in paragraph IX. E. below the decision to grant or refuse to grant a transfer shall lie within the sole discretion of the Housing Authority of Cochise County, and this policy does not create any right on the part of any applicant to be granted a transfer.

*D. Family rent obligations.* If a family occupying the Housing Authority of Cochise County public housing moves before the expiration of the lease term in order to protect the health or safety of a household member, the family will remain liable for the rent during the remainder of the lease term unless released by the Housing Authority of Cochise County. In cases where the Housing Authority of Cochise County determines that the family's decision to move was reasonable under the circumstances, the Housing Authority of Cochise County may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

*E. Portability.* Notwithstanding the foregoing, a Section 8-assisted tenant will not be denied portability to a unit located in another jurisdiction (notwithstanding the term of the tenant's existing lease has not expired, or the family has not occupied the unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the unit in order to protect a health or safety of an individual member of the household who is or has been the victim of domestic violence dating violence, sexual assault, and stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

- VAWA 2013 expands the housing protection from VAWA 2005 to extend to the following new housing programs, including two that are not administered by HUD:
  - HOME Investment Partnership Program
  - Section 202 Supportive Housing for the Elderly
  - Section 236 Rental Program
  - Section 811 Supportive Housing for People with Disabilities
  - Section 221(d)(3) Below Market Interest Rate (BMIR) Program
  - HOPWA Housing Program
  - HUD's McKinney-Vento homeless programs
  - Low-Income Housing Tax Credit properties (Department of Treasury)
  - USDA Rural Housing properties (Department of Agriculture)

## **X. Court Orders/Family Break-up**

A. *Court orders.* It is the Housing Authority of Cochise County's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by the Housing Authority of Cochise County and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

B. *Family break-up.* Other the Housing Authority of Cochise County policies regarding family break-up are contained in the Housing Authority of Cochise County's Public Housing Admissions and Continuing Occupancy Plan (ACOP) and its Section 8 Administrative Plan.

## **XI. Relationships with Service Providers**

It is the policy of the Housing Authority of Cochise County to cooperate with organizations and entities, both private and governmental, which provide shelter and/or services to victims of domestic violence. If the Housing Authority of Cochise County staff becomes aware that an individual assisted by the Housing Authority of Cochise County is a victim of domestic violence, dating violence, sexual assault, and stalking, the Housing Authority of Cochise County will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring the Housing Authority of Cochise County either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case. The Housing Authority of Cochise County's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which the Housing Authority of Cochise County has referral or other cooperative relationships.

## **XII. Notification**

The Housing Authority of Cochise County shall provide written notification to applicants, tenants, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance at time of initial lease-up and at each annual recertification. The full policy and required forms will also be made available on the Housing Authority of Cochise County's website.

- VAWA 2013 expands the notification requirements (currently at 24 CFR 5.2005(a)(1)) to require that HACC provide the notice when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefits, and to require that the notice be provided together with form HUD-50066.

## **XIII. Relationship with Other Applicable Laws**

Neither VAWA nor this Policy implementing it shall preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence, sexual assault, or stalking.

#### **XIV. Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures**

**Purpose.** In accordance with PIH 2017-02 (HA) the procedures that public housing agencies (PHAs) must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner. VAWA self-petitioners are those who claim to be victims of “battery or extreme cruelty.” VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking.

**Applicability.** PIH 2017-02 (HA) applies to public housing, housing choice voucher assistance (including project-based vouchers), and Section 8 Mod Rehab.

**Background.** VAWA was originally signed into law in 1994 and was most recently reauthorized in 2013. HUD issued implementing regulations for the most recent reauthorization in late 2016 (81 FR 87812). Prior to VAWA, non-citizen victims of covered crimes were dependent on the good will of their abusers to obtain the authorized immigration status necessary to receive assisted housing. Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers. “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such

1 See HUD memorandum “Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980,” dated December 15, 2016 (available at <http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf>) 2 immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the Housing Authority of Cochise County will make a final determination as to the self-petitioner’s eligibility for assistance.

**Applicability to other VAWA Housing Protections.** Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. PHAs may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part

5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking). See PIH 2016-09. Once HACC receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.

**Procedure.** When the Housing Authority of Cochise County receives a self-petition or INS Form 797 Notice of Action, HACC must initiate verification in the SAVE System:

1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System. The system will provide one of the following responses:

- If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3.
- If the SAVE system responds, “no match,” the PHA must complete the following additional steps. Continue to step 2.

2. Push the button for “Institute Additional Verification.” In the next screen, in the memo field, type “verify VAWA self-petition.” If the documentation provided by the applicant is a form I-130, type in the memo field “verify I-130.” Upload one of the following documents from applicant:

- I-360 VAWA Self-Petition
- I-130 Family-Based Visa Petition
- I-797 Notice of Action

Steps undertaken by DHS:

- o receipt of I-130 or I-360
- o prima facie determination
- o approval of self-petition

3. Wait for a final determination from the SAVE System. You will receive one of two confirmations:

- (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;
- (2) the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.” See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final

determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.

### **XV. Amendment**

This policy may be amended from time to time by the Housing Authority of Cochise County as approved by the Cochise County Board of Supervisors.

This policy was adopted by the Housing Authority of Cochise County Board of Commissioners at their September 21, 2009 Regular Meeting.

## **23.0 REPAYMENT POLICY**

### **Owner Debts to the PHA**

Any amount due to the PHA by an owner must be repaid by the owner with 30 days of the PHA determination of the debt.

If the owner is not entitled to future HAP payments, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or reaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

### **Family Debts to the PHA**

Any amount due to the PHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the assistance upon notification to the family and pursue other modes of collection.

### **Repayment Agreement [24 CFR 792.103]**

The term *repayment* agreement refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### **Repayment Agreement Guidelines**

#### ***Payment Thresholds***

Amounts between \$3,000 and the Federal or State threshold for criminal prosecution must be repaid with 36 months.

Amounts between \$2,000 and \$2,999 must be repaid within 30 months.

Amounts between \$1,000 and \$1,999 must be repaid within 24 months.

Amounts under \$1,000 must be repaid within 12 months.

### ***Execution of the Agreement***

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

### ***Due Dates***

All payments are due by the close of business on the 15<sup>th</sup> day of the month. If the 15<sup>th</sup> does not fall on a business day, the due date is the close of business on the first business day after the 15<sup>th</sup>.

### ***Non-Payment***

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12 months period, the repayment agreement will be considered in default, and the PHA will terminate assistance upon written notification to the family.

### ***No Offer of Repayment Agreement***

The PHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

## **GLOSSARY**

**1937 Housing Act:** The United States Housing Act of 1937 [42 U.S.C. 1437 et seq.)

**Absorption:** In portability, the point at which a receiving housing authority stops billing

the initial housing authority for assistance on behalf of a portable family. [24 CFR 982.4]

**Adjusted Annual Income:** The amount of household income, after deductions for specified allowances, on which tenant rent is based.

**Administrative fee:** Fee paid by HUD to the housing authority for the administration of the program.

**Administrative Plan:** The plan that describes housing authority policies for the administration of the tenant-based programs.

**Admission:** The point when the family becomes a participant in the program. In a tenant-based program, the date used for this purpose is the effective date of the first HAP Contract for a family (first day of initial lease term).

**Adult:** A household member who is 18 years or older or who is the head of the household, or spouse, or co-head.

**Allowances:** Amounts deducted from the household's annual income in determining adjusted annual income (the income amount used in the rent calculation). Allowances are given for elderly families, dependents, medical expenses for elderly families, disability expenses, and childcare expenses for children under 13 years of age. Other allowance can be given at the discretion of the housing authority.

**Amortization Payment:** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home. If furniture was included in the purchase price, the debt service must be reduced by 15% to exclude the cost of the furniture. The amortization cost is the initial financing, not refinancing. Set-up charges may be included in the monthly amortization payment.

**Annual Contributions Contract (ACC):** The written contract between HUD and a housing authority under which HUD agrees to provide funding for a program under the 1937 Act, and the housing authority agrees to comply with HUD requirements for the program.

**Annual Income:** All amounts, monetary or not, that:

- a. Go to (or on behalf of) the family head or spouse (even if temporarily absent) or to any other family member, or
- b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- c. Are not specifically excluded from Annual Income.
- d. Annual Income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

**Applicant (applicant family):** A family that has applied for admission to a program but is not yet a participant in the program.

**Assets:** see net family assets.

**Asset Income:** Income received from assets held by household members. If assets total more than \$5,000, income from the assets is "imputed" and the greater of actual asset income and imputed asset income is counted in annual income.

**Assisted lease (lease):** A written agreement between an owner and a family for the leasing of a dwelling unit to the family. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the housing authority.

**Certificate:** A document issued by a housing authority to a family selected for admission to the Certificate Program. The certificate describes the program and the procedures for housing authority approval of a unit selected by the family. The certificate also states the obligations of the family under the program.

**Certification:** The examination of a household's income, expenses, and family composition to determine the household's eligibility for program participation and to calculate the household's rent for the following 12 months.

**Child:** For purposes of citizenship regulations, a member of the family other than the family head or spouse who is under 18 years of age.

**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 childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Chronically Homeless:** In general, a chronically homeless person is an unaccompanied disabled individual who has been continuously homeless for over one year.

**Citizen:** A citizen or national of the United States.

**Common space:** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Congregate housing:** Housing for elderly or persons with disabilities that meets the HQS for congregate housing.

**Consent form:** Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and

SWICAs, return information from the Social Security Administration, and return information for unearned income from the Internal Revenue Service. The consent forms may authorize the collection of other information from assistance applicants or participant to determine eligibility or level of benefits.

**Contiguous MSA:** In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial housing authority is located.

**Continuously assisted:** An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Voucher Program.

**Cooperative:** Housing owned by a non-profit 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.

**Covered Families:** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Domicile:** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Decent, safe, and sanitary:** Housing is decent, safe, and sanitary if it satisfies the applicable housing quality standards.

**Department:** The Department of Housing and Urban Development.

**Dependent:** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Domestic Violence:** The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by the person who is cohabiting with or has cohabited with the victim as a spouse, by the person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction."

**Dating Violence:** Violence committed by a person:

- A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - 1. The length of the relationship.
  - 2. The type of relationship.
  - 3. The frequency of interaction between the persons involved in the Relationship.

**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, 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.

**Disabled person:** See "person with disabilities."

**Displaced family:** A family in which each member, or whose sole member, is a person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Displaced person:** A person displaced by governmental action (such as urban renewal), or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Drug related criminal activity:** Illegal use or personal use of a controlled substance, and the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use, of a controlled substance.

**Drug trafficking:** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance.

**Economic self-sufficiency program:** Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly family:** A family whose head, 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.

**Elderly person:** A person who is at least 62 years of age.

**Evidence of citizenship or eligible status:** The documents that must be submitted to evidence citizenship or eligible immigration status.

**Exception rent:** An amount that exceeds the published fair market rent.

**Extremely low-income families:** Those families whose incomes do not exceed 30% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act:** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

**Fair market rent (FMR):** The rent, including the cost of utilities (except telephone), as established by HUD 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. FMRs are published periodically in the Federal Register.

**Family** includes but is not limited to:

- a. A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
- b. An elderly family;
- c. A near-elderly family;
- d. A disabled family;
- e. A displaced family;
- f. The remaining member of a tenant family; and
- g. A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family members:** include all household members except live-in aides, foster children and foster adults. All family members permanently reside in the unit, though they may be temporarily absent. All family members are listed on the HUD-50058.

**Family self-sufficiency program (FSS program):** The program established by a housing authority to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share:** The portion of rent and utilities paid by the family or the gross rent minus the amount of the housing assistance payment.

**Family unit size:** The appropriate number of bedrooms for a family as determined by the housing authority under the housing authority's subsidy standards.

**50058 Form:** The HUD form that Housing Authorities are required to complete for each assisted household in public housing to record information used in the certification and re-certification process, and, at the option of the housing authority, for interim reexaminations.

**FMR/exception rent limit:** The Section 8 existing housing fair market rent published by HUD headquarters, or any exception rent. For a tenancy in the Voucher Program, the housing authority may adopt a payment standard up to the FMR/exception rent limit.

**Full-time student:** A person who is attending school or vocational training on a full-time basis.

**Gross rent:** The sum of the rent to the owner plus any utilities.

**Group Home:** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

**Head of household:** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household members:** include all individuals who reside or will reside in the unit and who are listed on the lease, including live-in aides, foster children and foster adults.

**Housing Assistance Payment (HAP):** The monthly assistance by a housing authority, which includes (1) a payment to the owner for rent to the owner under the family's lease, and (2) an additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing quality standards (HQS):** The HUD minimum quality standards for housing assisted under the Section 8 program.

**Housing voucher:** A document issued by a housing authority to a family selected for admission to the Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

**Housing voucher holder:** A family that has an unexpired housing voucher.

**Affiliated individual** – means, with respect to a person –

- A. a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or

- B. any other person living in the household of that person and related to that person by blood or marriage.

**Imputed income:** For households with net family assets of more than \$5,000, the amount calculated by multiplying net family assets by a HUD-specified percentage. If imputed income is more than actual income from assets, the imputed amount is used in determining annual income.

**Imputed welfare income:** The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

**Income category:** Designates a family's income range. There are three categories: low income, very low income and extremely low-income.

**Incremental income:** The increased portion of income between the total amount of welfare and earnings of a family member prior to enrollment in a training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases and decreases, are treated in the usual manner in determining annual income.

**Initial Housing Authority:** In portability, both: (1) a housing authority that originally selected a family that later decides to move out of the jurisdiction of the selecting housing authority; and (2) a housing authority that absorbed a family that later decides to move out of the jurisdiction of the absorbing housing authority.

**Initial payment standard:** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner:** The rent to owner at the beginning of the initial lease term.

**Interim (examination):** A reexamination of a household's income, expenses, and household status conducted between the annual recertifications when a change in a household's circumstances warrant such a reexamination.

**Jurisdiction:** The area in which the housing authority has authority under State and local law to administer the program.

**Lease:** A written agreement between an owner and tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the housing authority.

**Live-in aide:** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- a. Is determined to be essential to the care and well-being of the persons;
- b. Is not obligated for the support of the persons; and

- c. Would not be living in the unit except to provide the necessary supportive services.

**Low-income families:** Those families whose incomes do not exceed 80% of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family 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.

**Manufacture home space:** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space.

**Medical expenses:** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

**Mixed family:** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Moderate rehabilitation:** Rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

- a. upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance; or
- b. repair or replace major building systems or components in danger of failure.

**Monthly adjusted income:** One twelfth of adjusted income.

**Monthly income:** One twelfth of annual income.

**Mutual housing** is included in the definition of "cooperative".

**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.

**Net family assets:**

- a. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- b. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income.
- c. In determining net family assets, housing authorities or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen:** A person who is neither a citizen nor national of the United States.

**Notice Of Funding Availability (NOFA):** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance, and the criteria for awarding the funding.

**Occupancy standards:** The standards that the housing authority establishes for determining the appropriate number of bedrooms needed to house families of different sizes or composition.

**Owner:** Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

**Participant (participant family):** A family that has been admitted to the housing authority's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the housing authority for the family (first day of initial lease).

**Payment standard:** In a voucher tenancy, the maximum monthly assistance payment for a family (before deducting the total tenant payment by family contribution). For a voucher tenancy, the housing authority sets a payment standard in the range from 90% to 110% of the current FMR.

**Person with disabilities:** A person who:

- A. Has a disability as defined in 42 U.S.C. 423
- B. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  1. Is expected to be of long-continued and indefinite duration;
  2. Substantially impedes his or her ability to live independently; and
  3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- C. Has a developmental disability as defined in 42 U.S.C. 6001

This definition does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

For purposes of qualifying for low-income housing, it does not include a person whose disability is based solely on any drug or alcohol dependence.

**Perpetrator:** Means person who commits an act of domestic violence, dating violence, Or stalking against a victim.

**Portability:** Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial housing authority.

**Premises:** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space:** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Preservation:** This program encourages owners of eligible multifamily housing projects to preserve low-income housing affordability and availability while reducing the long-term cost of providing rental assistance. The program offers several approaches to restructuring the debt of properties developed with project-based Section 8 assistance whose HAP contracts are about to expire.

**Processing Entity:** The person or entity that is responsible for making eligibility and related determinations and an income reexamination. In the Section 8 and public housing programs the processing entity is the responsibility entity.

**Proration of assistance:** The reduction in a family's housing assistance payment to reflect the proportion of family members in a mixed family who are eligible for assistance.

**Public Housing:** Housing assisted under the 1937 Act, other than under Section 8. Public housing includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating funds.

**Public Housing Agency:** 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.

**Reasonable rent:** A rent to owner that is not more than charged: (a) for comparable units in the private unassisted market; and (b) for a comparable unassisted unit in the premises.

**Receiving Housing Authority:** In portability, a housing authority that receives a family selected for participation in the tenant-based program of another housing authority. The receiving housing authority issues a voucher and provides program assistance to the family.

**Re-certification:** A reexamination of a household's income, expenses, and family composition to determine the household's rent for the following 12 months.

**Remaining member of a tenant family:** A member of the family listed on the lease who continues to live in an assisted household after all other family members have left.

**Rent to owner:** The monthly rent payable to the owner under the lease. Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Responsible Entity:**

- A. For the public housing program, the Section 8 tenant-based assistance program (24 CFR 982), and the Section 8 project-based certificate or voucher program (24 CFR 983), and the Section 8 moderate rehabilitation program (24 CFR 882), responsible entity means the PHA administering the program under an ACC with HUD;
- B. For all other Section 8 programs, responsible entity means the Section project owner.

**Set-up charges:** In a manufactured home space rental, charges payable by the family for assembly, skirting and anchoring the manufactured home.

**Shared housing:** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

**Shelter Allowance:** That portion of a welfare benefit (e.g., TANF) that the welfare agency designates to be used for rent and utilities.

**Single person:** Someone living alone or intending to live alone who does not qualify as an elderly person, a person with disabilities, a displaced person, or the remaining member of

**Single room occupancy housing (SRO):** A unit for occupancy by a single eligible individual capable of independent living that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

**Special admission:** Admission of an applicant that is not on the housing authority waiting list, or without considering the applicant's waiting list position.

**Special housing types:** Special housing types include SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction:**

- A. A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
- B. "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:
  1. at the expiration of a lifetime or other time limit on the payment of welfare benefits;
  2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
  3. because a family member has not complied with other welfare agency requirements.

**Stalking:**

- A. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person; and
- B. in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to:
  1. that person;
  2. a member of the immediate family of that person; or
  3. the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA):** The State agency receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Statement of family responsibility:** An agreement in the form prescribed by HUD, between the housing authority and a Family to be assisted under the Moderate Rehabilitation Program, stating the obligations and responsibilities of the family.

**Subsidy standards:** Standards established by a housing authority to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension:** Stopping the clock on the term of a family's voucher, for such period as determined by the housing authority, from the time when the family submits a request for housing authority approval to lease a unit, until the time when the housing authority approves or denies the request. Also referred to as tolling.

**Tenant:** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent:** The amount payable monthly by the family as rent to the owner minus any utility allowance.

**Third-party (verification):** Oral or written confirmation of a household's income, expenses, or household composition provided by a source outside the household, such as an employer, doctor, school official, etc.

**Tolling:** see suspension.

**Total tenant payment (TTP):**

(1) Total tenant payment is the amount calculated under Section 3(a)(1) of the 1937 Act. which is the higher of:

30% of the family's monthly adjusted income;

10% of the family's monthly income;

Minimum rent; or

if the family is receiving payments for welfare assistance from a public agency and a part of such 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 such payments which is so designated.

If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under Section 3(a)(1) shall be the amount resulting from one application of the percentage.

**Utility allowance:** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a housing

authority or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility hook-up charge:** In a manufactured home space rental, costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Utility reimbursement:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

**Verification:**

- a. The process of obtaining statements from individuals who can attest to the accuracy of the amounts of income, expenses, or household member status (e.g., employers, public assistance agency staff, doctors).
- b. The three types of verification are:
  - (1) Third-party verification, either written or oral, obtained from employers, public assistance agencies, schools, etc.)
  - (2) Documentation, such as a copy of a birth certificate or bank statement
  - (3) Family certification or declaration (only used when third-party or documentation verification is not available)

**Very low-income families:** Families whose incomes do not exceed 50% of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Violent criminal activity:** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (rental voucher):** A document issued by a housing authority to a family selected for admission to the Housing Choice Voucher Program. This document describes the program and the procedures for housing authority approval of a unit selected by the family and states the obligations of the family under the program.

**Voucher holder:** A family holding a voucher with unexpired search time.

**Waiting list admission:** An admission from the housing authority waiting list. [24 CFR 982.4]

**Welfare assistance.** Welfare or other payments to families or individuals, based on need,

that are made under programs funded by Federal, State or local governments. [24 CFR 5.603(d)]

**Welfare rent:** In "as-paid" welfare programs, the amount of the welfare benefit designated for shelter and utilities.

### ACRONYMS

|          |   |
|----------|---|
| ACC      | Annual Contributions Contract                       |
| CACC     | Consolidated Annual Contributions Contract          |
| CFR      | Code of Federal Regulations                         |
| EHV      | Emergency Housing Voucher                           |
| FMR      | Fair Market Rent                                    |
| FSS      | Family Self Sufficiency (program)                   |
| HACC     | Housing Authority of Cochise County                 |
| HAP      | Housing Assistance Payment                          |
| HCV      | Housing Choice Voucher                              |
| HCDA     | Housing and Community Development Act               |
| HOPWA    | Housing Opportunities for Persons With AIDS         |
| HQS      | Housing Quality Standards                           |
| HUD      | Department of Housing and Urban Development         |
| HUD-VASH | HUD Veterans Affairs Supportive Housing             |
| INS      | (U.S.) Immigration and Naturalization Service       |
| NAHA     | (Cranston-Gonzalez) National Affordable Housing Act |
| NOFA     | Notice of Funding Availability                      |
| O/A      | Operators/Agents                                    |
| OMB      | (U.S.) Office of Management and Budget              |
| PBC      | Project-Based Certificate (program)                 |

PHA Public Housing Agency

QHWRA Quality Housing and Work Responsibility Act of 1998

PHA Public Housing Agency

TTP Total Tenant Payment

VAMC Veterans Affairs Medical Center

VASH Veterans Affairs Support Housing

VAWA Violence Against Women Act

ADA Americans with Disabilities Act

SAAF Southern Arizona AIDS Foundation

HOPWA Housing Opportunities for Persons With AIDS

EHV Emergency Housing Vouchers